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Hon. Charles E. Hughes.

Governor of New York State.

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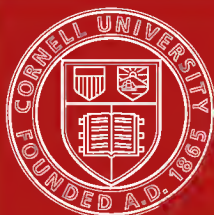
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STATE OF NEW YORK

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PUBLIC PAPERS  
OF  
CHARLES E. HUGHES  
GOVERNOR

1908

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1909

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**I**  
**PROCLAMATIONS**





# I

## PROCLAMATIONS

### Upon the Death of Grover Cleveland

STATE OF NEW YORK — EXECUTIVE CHAMBER.

I announce with deep regret the death of Grover Cleveland.

Mayor of Buffalo, Governor of this State, twice President of the United States, he personified civic virtue and exalted the ideal of public office as a public trust.

Firm, resolute, incorruptible, unseduced by flattery and unshaken by fear, just and tenacious of conviction, he enriched the nation with a noble example of strength and fidelity.

And as it is fitting that New York, to whom he gave the earlier service which tested and revealed his character, should pay to his memory the tribute of esteem due to one of her most honorable and distinguished servants,

Now, THEREFORE, I, Charles E. Hughes, Governor of the State of New York, do request that the flags upon all the public buildings of the State, including armories and arsenals, be displayed at half-mast up to and including Friday, the twenty-sixth day of June, nineteen hundred and eight, and that the citizens of the State unite in appropriate marks of respect.

GIVEN under my hand and the Privy Seal of the State  
[L.S.] at the Capitol in the City of Albany this twenty-fourth day of June in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

### Ordering a Special Election in the Forty-Seventh Senate District

STATE OF NEW YORK — EXECUTIVE CHAMBER.

WHEREAS, a vacancy exists in the office of Senator for the Forty-seventh Senate District of the State of New York, composed of the counties of Niagara and Orleans, caused by the death on the twenty-fourth day of March, 1908, of Honorable Stanislaus P. Franchot, Senator from said district;

NOW, THEREFORE, I, Charles E. Hughes, Governor of the State of New York, in pursuance of the provisions of section 4 of chapter 909 of the Laws of 1896, known as the Election Law, do hereby order and proclaim that an election for State Senator in the place of the said Stanislaus P. Franchot, be held in the Forty-seventh Senate District, composed of the counties of Niagara and Orleans, on Tuesday, the twelfth day of May, 1908, such election to be conducted in the mode prescribed by law for the election of State Senators.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this tenth  
[L.S.] day of April in the year of our Lord one thousand  
nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

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### Convening the Legislature in Extraordinary Session

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Pursuant to the power vested in me by section 4 of Article IV of the Constitution, I hereby convene the Legislature in Extraordinary Session at the Capitol in the city of Albany

on Monday, the eleventh day of May, 1908, at half-past eight o'clock, post meridian.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this twenty-  
[L.S.] third day of April in the year of our Lord one  
thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

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### **In Relation to the Law Prohibiting Political Assessments**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, October 19, 1908.

*To All Public Officers and Employees:*

Your attention is hereby called to section 24 of the Civil Service Law, which reads as follows:

#### **"POLITICAL ASSESSMENTS PROHIBITED.**

"No officer, agent, clerk or employee under the government of the State of New York or any civil division or city thereof shall, directly or indirectly, use his authority or official influence to compel or induce any other officer, clerk, agent or employee under said government, or any civil division or city thereof, to pay or promise to pay any political assessment, subscription or contribution. Every said officer, agent, clerk or employee who may have charge or control in any building, office or room occupied for any purpose of said government, or any said division or city thereof, is hereby authorized to prohibit the entry of any person, and he shall not knowingly permit any person to enter the same for the purpose of therein making, collecting, receiving or giving notice of any political assessment, subscription or contribution; and no person shall

enter or remain in any said office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting a political assessment, nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution; and no person shall prepare or make out, or take any part in preparing or making out, any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected of any officer, agent, or employee, subject to the provisions of this act, under the government of the State of New York, or that of any civil division or city thereof, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any said officer, agent or employee. Any person who shall be guilty of violating any provision of this section shall be deemed guilty of a misdemeanor."

This statute embodies a sound and important policy and should be faithfully observed. All public officers and employees are hereby warned against any violation of its provisions.

(Signed) CHARLES E. HUGHES.

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### **Appointing a Day of General Thanksgiving**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

With grateful recognition of our unity as a people; of our enjoyment of peace and tranquillity; of the wealth of our material and moral resources; of increasing opportunities for industry; of educational advantages and social improvement; and of our peaceful progress toward the realization of the ideals of free society:

And with profound appreciation of the obligations of liberty and of our dependence for the maintenance of our institutions upon a proper sense of the responsibilities of citizen-

ship and upon the cultivation of those qualities of character which will enable us to discharge them:

And with a common desire to uplift our hearts in praise for the blessings we enjoy:

Let each of us give thanks to Almighty God for our privileges, and with wholesome resolution and with reverent spirit in His name let us devote our lives to the attainment of the best of which we are capable in all good works, delighting in our fellowship and in the joyous service of brotherhood:

NOW, THEREFORE, to this end, I, Charles E. Hughes, Governor of the State of New York, by virtue of the authority vested in me by the laws of the State, do hereby appoint Thursday, the twenty-sixth day of November in the year nineteen hundred and eight, as a day of general thanksgiving.

Done at the Capitol in the city of Albany this twelfth [L.S.] day of November in the year nineteen hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

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### Concerning the Disaster Caused by Earthquake in Italy

STATE OF NEW YORK — EXECUTIVE CHAMBER.

*To the People of the State of New York:*

The calamity which has visited Southern Italy and Sicily must not only excite our deep sympathy with those so suddenly stricken, but our desire to aid in the relief of their pressing necessities. To this we are prompted by humane impulse and by our friendly interest in the people so largely represented among our citizens.

I recommend that contributions be made through the New York State Branch of the American National Red Cross which is in communication with the Italian Red Cross and has undertaken to receive and forward funds offered for relief.

It may be hoped that the generosity of our people which has had such beneficent illustration in the past may again have abundant expression.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this thirtieth  
[L.S.] day of December in the year of our Lord one  
thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

## **II**

# **MESSAGES TO THE LEGISLATURE**





## II

### MESSAGES TO THE LEGISLATURE

Regular Session Began January 1; Ended April 23

Extraordinary Session Began May 11; Ended June 11

#### Annual Message

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, January 1, 1908.

*To the Legislature:*

The transactions of the treasury during the fiscal year ending September 30, 1907, show a large increase in receipts, and a net gain in surplus amounting to \$2,386,693.18.

Against \$35,596,966.92 received from all sources during the year ending September 30, 1906, the State received in the last fiscal year \$43,980,373.47. Of the increase \$7,317,584.76 are attributable to the sale of bonds for canal and highway improvements, to the canal debt sinking fund account and unexpended canal appropriations, and to the account of trust funds, as follows:

	1906.	1907.
Proceeds of sale of barge canal bonds .....	\$1,011,466 67	\$5,038,404 59
Principal and interest on bonds and judgments for canal debt sinking fund and interest on deposits for same.....	318,005 05	396,079 78
Unexpended balance of canal appropriations refunded .....	.....	124,665 12

Proceeds of sale of bonds and temporary bonds for highway improvement .....	\$100,000 00	\$2,317,393 10
Other receipts for account of improvement of public highways. ....		22,684 21
Trust funds, including principal and interest on bonds and deposits .....	687,384 42	1,535,214 10
	<hr/>	<hr/>
	\$2,116,856 14	\$9,434,440 90
	<hr/>	<hr/>
Excess in receipts for said purposes in 1907 over 1906.....		<u>\$7,317,584 76</u>

Apart from receipts from fees of public officers, including notaries, and fines and penalties (\$382,024.75), from State prisons (\$51,025.22), through State institutions on account of sales, etc. (\$475,192.11), for expenses of Insurance and Banking departments (\$443,588.32), from sales of lands (\$90,053.18), from interest on general treasury deposits (\$221,313.54), and from miscellaneous sources (\$306,084.69), the amounts raised by taxation aggregated \$32,576,650.76. Although no direct State tax was laid (exclusive of special tax for judges, stenographers, etc.) this amount was \$1,237,821.49 in excess of the amount raised in the preceding year. The comparison is as follows:

	1906.	1907.
Direct State tax.....	\$1,163,042 30	.....
Special tax for judges, stenographers, etc. ....	239,675 00	\$218,282 14
Tax on corporations.....	7,832,842 86	8,581,223 44
Tax on organization of corporations .....	485,030 60	391,423 18
Tax on transfers of decedent's estates .....	4,713,311 33	5,435,394 97
Tax on transfer of stocks.....	6,631,903 22	5,575,986 64
Tax on trafficking in liquors....	9,486,500 28	9,697,504 24
Tax on mortgages.....	431,323 17	2,442,249 73

Tax on racing associations.....	\$201,371 14	\$215,925 29
Tax on land of nonresident owners .....	153,829 37	18,661 13
	<u>\$31,338,829 27</u>	<u>\$32,576,650 76</u>
Excess in 1907.....		<u>\$1,237,821 49</u>

The income of \$2,442,249.73 from the recording tax on mortgages is especially noteworthy and fully justifies the expectations of its promoters.

The disbursements during the last fiscal year amounted to \$39,012,687.28 as against \$30,350,096.21 in the preceding year. Of the difference \$8,290,513.62 are accounted for in the expenditures for canals, for highways, in trust fund transactions, for forest preserve purchases, redemption of Adirondack Park bonds, and on account of the new educational building, to wit:

	1906.	1907.
Canals, for all purposes, including amounts paid from canal debt sinking fund (1906, \$2,583,499.25; 1907, \$5,369,384.45) .....	\$4,980,053 04	\$8,760,034 06
Highways, for all purposes (including principal and interest, temporary certificates for highway improvement, 1907, \$557,423.34) .....	1,175,595 17	3,279,967 58
Trust fund transactions.....	472,269 96	1,935,989 31
Adirondack park and Catskill preserve purchases .....	69,203 81	339,117 58
Principal and interest Adirondack Park bonds.....		210,500 00
State Educational Building.....		462,027 07
	<u>\$6,697,121 98</u>	<u>\$14,987,635 60</u>
Excess for these purposes in 1907.....		<u>\$8,290,513 62</u>

After proper allocation of funds, the available balance or surplus on September 30, 1907, amounted to \$13,678,138.47 as against \$11,291,445.29 at the end of the previous year.

The State debt increased during the last fiscal year from \$10,630,660 to \$17,290,660. This was due to the issue of bonds for canal and highway purposes. The debt is distributed as follows:

	1906.	1907.
Canals .....	\$10,230,660	\$15,230,660
Adirondack Park .....	400,000	200,000
Highways .....	.....	1,860,000
	<hr/>	<hr/>
	\$10,630,660	\$17,290,660
	<hr/>	<hr/>

On September 30, 1907, the sinking funds for the canal and highway debts amounted to \$9,573,055.81, leaving the balance of debt unprovided for \$7,717,604.19. The only debt maturing during the current fiscal year consists of the remaining \$200,000 Adirondack Park bonds which matured on February 1, 1908.

#### CANALS.

The amount of canal improvement work now under contract amounts to \$22,400,000; contracts have been awarded during the past year amounting to \$7,067,000; and plans have been finished for the award of contracts amounting to \$7,042,000. The State Engineer estimates that plans for the entire work will be completed in from ten to twelve months. It is of manifest importance that this work should proceed with all possible speed consistent with expert care.

I renew my recommendation of last year that in place of the present expensive method of appraising lands acquired for this purpose, the matter of appraisal and the making of agreements of purchase or for the settlement of damages should be committed to the Superintendent of Public Works subject to the approval of the Canal Board.

## HIGHWAYS.

During the past year 385 miles of State roads have been built and 564 miles in addition have been contracted for. Plans are ready for 1,093 miles of road. It is understood that of these last, bids will be received in January for 201 miles, and that the remaining 892 miles represent roads for which the counties have already appropriated their share of the cost of construction, but for which contracts cannot be let until appropriation of the State's share has been made by the Legislature.

In making the large expenditure which is contemplated for improved highways, the object is to execute a comprehensive plan in the interest of the whole State, furnishing through lines connecting centers of population and proper lateral lines to provide each section with adequate means of communication. The subject of needed improvement in our system of highway development and maintenance is one deserving of your most careful consideration, in which you will be aided by the report of the committee of the Legislature specially appointed to examine the matter.

## BANKS AND TRUST COMPANIES.

The recent financial disturbance has directed attention to the importance of amending the law relating to banks and trust companies. There is much reason for gratification in the fact that for the most part our institutions were found to be sound and that only a few were compelled to give way despite an unparalleled strain. But every practicable means should be adopted to prevent repetition of reprehensible practices and to assure the proper management of the financial institutions chartered and supervised by the State, upon whose stability and prosperity the interests of our people in every walk of life so largely depend.

In order that the matter might be considered with appropriate promptness and in the light of expert opinion, I requested six eminent bankers representing respectively the different classes of institutions, to collate facts, to receive suggestions and to express their views with reference to necessary changes

in the law of the State. These gentlemen, Messrs. A. Barton Hepburn, Edwin S. Marston, Edward W. Sheldon, Algernon S. Frissell, Stephen Baker and Andrew Mills, undertook the task as a matter of public duty, serving without compensation and defraying their own expenses. I submit to you their valuable report, inviting your most careful consideration of its recommendations and also of those contained in the report of the Superintendent of Banks.

It is advised that there should be an enlargement and more careful definition of the powers of the Superintendent of Banks with reference to the organization of banks and trust companies, the establishment of branches of either, and mergers or the control of one institution by another. Recent events have demonstrated the necessity of providing effective means for preventing the exploitation of banks and trust companies and the acquisition and use of a control of a number of institutions to facilitate selfish schemes opposed to sound banking. If suitable restrictions are imposed in explicit form and with appropriate penalties, ensuring adequate knowledge and proper action on the part of the board of directors with regard to loans and other transactions; preventing the deposit of moneys of one institution with another in order that the officers, directors, or stockholders of the former may obtain desired credits from the latter; limiting the amount which may be loaned by any bank or trust company upon the stock of another financial institution; reducing the amount which may be loaned upon collateral to any one interest; and erecting proper safeguards against loans and investments in aid of schemes of promotion represented by unmarketable securities; and if in addition suitable means are provided for the enforcement of the rulings of the Superintendent of Banks with regard to improper or unsafe practices, the security of our financial institutions, and the confidence which springs from just reliance upon their proper management, will greatly be strengthened.

The members of the committee are not agreed upon the subject of reserves. The maintenance of reserves, to the highest extent suggested, of course will not protect against the conse-

quences of improper investments or save an institution that is in an unsound condition. But it is apparent that the existence of demand obligations requires reserves to be maintained and that they have the salutary tendency to prevent an undue expansion of credits. The arguments that are adduced with respect to the different reserve plans which are proposed I submit to your consideration.

With regard to trust companies, however, the matter of reserves is a phase of a larger question. It was not contemplated by the law relating to trust companies that they should engage in the same business as banks. Their powers were defined with reference to the execution of trusts and to action in fiduciary capacities, with such incidental privileges as were deemed consistent with the general purposes. In practice, however, they have engaged in the banking business upon a large scale and the moneys deposited with them are for the most part payable on demand. Despite this development of their business it was not until 1906 that they were required to keep any cash reserve, and this is much less than that required of banks. Whatever else may be said on the subject, it would seem clear that business of the same sort should be transacted under the same conditions. It is not the name of the institution which justifies the imposition or the omission of the restriction, but the kind of business.

In my judgment nothing will meet the situation with fairness to the interests of the banks, of the trust companies, and of the public which deal with both, which does not require that each distinct field of operation should carefully be delimited and that any corporation transacting business in a particular field shall be subject to the obligations and restrictions which pertain to that field. Whatever reserves, or other restrictions, may be deemed advisable with reference to demand deposits in the case of a bank should be equally obligatory with reference to the same sort of deposits in the case of a trust company. Similarly the savings bank business is a distinct field, and business of this sort should be transacted only by institutions subject to the restriction of the savings bank law.

The amount of legal expenses incident to the liquidation of insolvent banking institutions in this State is a grave scandal to which the committee of bankers fittingly calls attention. I recommend that provision be made for liquidation under the supervision of the Superintendent of Banks and that he shall have authority to appoint liquidating agents and necessary assistants to enable him to wind up the business in the most speedy and economical manner. I do not think that there should be an attempt to oust the court of its jurisdiction to appoint receivers. But the present provisions of law for exclusive liquidation through receivers appointed by the court may be changed and the courts should be left to exercise their jurisdiction in cases where they deem it necessary to interfere with the ordinary course of liquidation. And it should be provided that application for the appointment of receivers by the court shall be made in the judicial district in which the corporation has its principal place of business and that proper notice of the application shall be given to all creditors. Similar provision should be made for the liquidation of building and loan associations.

#### INSURANCE.

The provisions of the Insurance Law, recently enacted, with reference to the business of life insurance, were designed to ensure conservative management and to prevent resort to wasteful methods and the recurrence of the evils which had been disclosed. There is no business more closely related to the welfare of the people, especially to the thrifty and provident, and none which should be more carefully safeguarded. I recommend to the Legislature that, while any suggestions of amendments should receive proper consideration, there should be extreme caution in making any changes, and no changes should be made unless it clearly appears that they are needed to conserve the interests of the policyholders.

The need of improving the standard form of fire insurance policy has been urged, and I present the subject for your consideration.



I also call your attention to the advisability of providing for the liquidation under the supervision of the Superintendent of Insurance, of insolvent insurance corporations in the same manner as is proposed for the liquidation of banking institutions.

#### PUBLIC SERVICE COMMISSIONS LAW.

The Public Service Commissions Law has provided for the investigation and redress of grievances in connection with the operation of railroad, gas, and electrical corporations. The necessity of having such an administrative board with adequate powers so that complaints may be heard and determined upon their merits, and that there may be suitable machinery for enforcing the rules of law requiring impartial and proper service upon reasonable terms, according to the exigencies of each particular case, cannot be gainsaid. No change is suggested in policy or structure, but such amendments as experience may show to be advisable to improve the text, to facilitate administration or more fully to carry out the intent of the act, should be supplied.

I recommend, however, an enlargement of the scope of the act. In view of the tasks to be assumed with respect to corporations already under supervision, it was not thought best at the outset to extend the act to other corporations. It should now be extended to telephone and telegraph companies and they should be brought under appropriate regulation as to rates, service, and other matters, similar to that which obtains in the case of the corporations at present subject to the law.

It is not advisable that separate commissions should be created; efficiency and economy will be promoted by concentration of supervisory powers. The increased labors of the Public Service Commissions may be met by suitable departmental organization. But to avoid the overburdening of the commissions when organization is being perfected and precedents in various classes of cases are being established, I recommend that this extension of jurisdiction shall take effect on October 1, 1908.

## NEW YORK CITY CHARTER AND DEBT LIMIT.

The commission, the appointment of which was authorized at the last session, "to inquire into the local government of the city of New York and the charter thereof and to suggest legislation thereon," has made a report which I submit to the Legislature. As the commission was directed to report on or before December 1, 1907, it did not have sufficient time to prepare a revised charter. But in its report it has made a valuable contribution to the work of revision in stating the principles which it regards as of fundamental importance, and in projecting the lines of improved governmental system and administration. This work should be prosecuted to completion without unnecessary delay, and I recommend that provision be made at as early a date as practicable for the appointment of a commission for this purpose.

Through the work of the Public Service Commission of the first district existing facilities will be availed of to their utmost capacity to improve conditions of transit. But the natural increase in the demands for service, which is incident to the rapid growth of the city, necessarily outstrips any possible improvement in the facilities at present available.

The construction of new lines, particularly of new subway lines, is imperatively demanded. With respect to this matter the Public Service Commission is subject to the provisions of the Rapid Transit Act. By the referendum of 1894, the plan of municipal construction of rapid transit lines was decided upon, and there is no provision for building such lines with private capital except in the case of certain extensions of, and additions to, existing lines. It is urged, however, that the city's indebtedness has reached such an amount that there is not a sufficient margin available to enable the city to provide for the construction of needed subways. The Charter Revision Commission recommends that the Constitution should be so amended as to exclude from the computation of the city's debt limit all bonds or evidences of indebtedness issued for purposes which produce revenues in excess of their maintenance charges. I concur in this recommendation and I pre-

sent it to you for appropriate action, looking to the submission to the people of the proposed amendment in suitable form.

In the meantime the question whether any changes in the Rapid Transit Act should be made in order to facilitate subway construction should receive your most serious consideration.

#### ELECTIONS.

*The Ballot.*—I renew the recommendation for the adoption of a simplified form of ballot, without the party column, in which the names of candidates for the respective offices shall appear but once grouped under the names of the offices.

The present form of ballot is unnecessarily cumbersome. In some instances there have been on one ballot as many as seven separate columns of independent nominations and the name of the same candidate has appeared three and four times, in as many columns. No candidate should have more than one place on the ballot, so that there may be the smallest possible opportunity for fraudulent contrivances to secure the advantages of duplication. Appropriate designation of party may be placed opposite each name.

Each voter should be required to express his choice for each office separately. All parties will be placed upon the same footing and the effect will be to encourage the nomination of candidates who will not suffer by reason of separate consideration. The uncertainty which from time to time develops with regard to the proper method of voting split tickets should be removed, and the best way of accomplishing this result is to put the voters on the same basis. Experience in other States shows that partisan fears of the effect of a simpler ballot are unfounded. There should be no unwillingness to provide for the freest expression at the polls of the popular will, and public policy demands that the strength of party organization should be maintained by the quality of its acts and candidates, and the principles for which it stands, and that it should not be permitted to proceed along the line of least resistance by means of favoring arrangements of our election machinery.

*Constitutional Amendments.*—Some means should be devised to familiarize the voters with proposed constitutional amendments, to the end that more intelligent consideration may be secured. Provision for the delivery of the text of the amendment to the voter at the time of registration in districts where personal registration is necessary, and suitable notification elsewhere, may be advisable.

#### PRIMARIES AND DIRECT NOMINATIONS.

The urgent need for primary reform is generally recognized. There is wide difference between effective organization in the interest of the party and the misuse of such organization for purely selfish purposes. Within itself the party constitutes a democracy, and its members should be protected against despotic proceedings.

To prevent frauds provision should be made for an official primary ballot. But the form of the ballot should put all the enrolled voters upon an even footing, without any advantage to those who are in power for the time being, and should encourage discrimination in the selection of party representatives.

There should be unrestricted opportunity for the expression of the wishes of the members of the party in the selection of candidates for office. Only in this way can healthy party activity be secured. And in order that the enrolled voters should be encouraged to take part in party proceedings, and that the will of the party in the choice of candidates may be expressed, and not defeated by a perversion of party machinery, I am in favor of direct nominations. I renew the recommendation made at the last session that provision should be made for such nominations, at the primary, of candidates for office. In my judgment it is advisable that the provision should take the permissive form; that is, that a method of direct nominations shall be defined which party organizations may adopt by suitable rule. I favor this course because I believe that in this manner legislation can be had which will secure a fair trial of the plan and pave the way for its general adoption in the light of persuasive experience.

## RACE TRACK GAMBLING.

As amended in 1895, the Constitution (Article I, section 9) provides:

"Nor shall any lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this state; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section."

Following the adoption of this provision the Legislature in 1895 amended the Penal Code (section 351) so as to make it a felony to engage in pool-selling or book-making at any time or place, or to record bets or to keep or occupy any place or stand for such purpose. It made an exception, however, of cases where an exclusive penalty was otherwise provided.

At the same time, by the so-called Racing Law (Laws of 1895, chapter 570, sections 17-18) a different and exclusive penalty was provided for book-making and pool-selling on authorized race tracks, provided no memorandum or token of the bet was delivered. This exclusive penalty consists of the forfeiture of the amount wagered, to be recovered in a civil action.

In writing for the Court of Appeals with reference to the construction of these sections of the Racing Law, Chief Judge Cullen said (*People v. Stedeker*, 175 N. Y. on page 64):

"It will thus be seen that the effect of these two sections is to relieve any person who either makes or records a bet, wager or pool upon the race course from any liability to punishment except the recovery by the other party of the money bet or deposited. There is but one qualification on this exemption, that no record or registry of the bet shall be delivered to the other party or to some third person for him. In other words, the question whether the offender is a felon or not depends upon whether he delivers, what I may term, a voucher or evidence of the bet to the other party. If he abstains from this he may bet, wager and sell pools on the races and record and register the same free from other liability than the civil penalty. \* \* \*"

The constitutionality of this discrimination has been upheld by the Court of Appeals upon the ground that in carrying out the provisions of the Constitution it was in the discretion of the Legislature to fix the penalty and that in the cases specified the Legislature could make the penalty simply a forfeiture of the bet, to be recovered in a civil action. The question for the court was simply one of legislative power.

A different question, however, is presented to the Legislature in the exercise of its discretion, and that is the question of legislative policy and of a substantial, and not a mere technical, compliance with the explicit constitutional provision. The Constitution makes it the duty of the Legislature to enact appropriate laws to prevent pool-selling, book-making, and other kinds of gambling. Experience has shown that the laws enacted have not accomplished the purpose which the Constitution defines. The evils and demoralizing influences, and it may be added, the economic waste, at which the Constitution aimed, exist under the law and in fact are stimulated and increased through its provisions. The discrimination in penalties now existing rests on no distinction that is justified to the popular mind. Public sentiment is against such arbitrary distinctions, with the result that the laws against gambling outside of race tracks have been defied, and the administration of the law has been brought into contempt.

The Constitution makes no exception of race tracks. I recommend that the Legislature carry out the clear direction of the people without discrimination. In connection with the repeal of the existing exception, I recommend that the offenses described in section 351 of the Penal Code should be punished by imprisonment and that the alternative of fines should be abolished.

The Racing Law provides for a tax of 5 per cent. upon the gross receipts at trotting and running race meetings which under the Agricultural Law becomes part of a fund for distribution each year among various agricultural societies in prescribed proportions. In order that there may be no diminution of the support upon which these societies largely rely, appropriations may be made for their benefit to the extent

necessary to secure to them amounts substantially equivalent to the sums they hitherto have received. It is better that they should be supported directly than that the State should derive a revenue for this purpose through an indefensible partiality in the enforcement of the fundamental law.

#### STATE INSTITUTIONS.

*Charitable Institutions.*—Under acts passed at the last session, commissions were appointed to select sites for the New York State Training School for Boys, to succeed the present House of Refuge on Randall's Island, and also for an Eastern New York State Custodial Asylum for epileptic and feeble-minded persons requiring custodial care. Reports will soon be submitted to the Legislature and in order to expedite this important work it is recommended that appropriations for the purchase of adequate sites and for their suitable improvement shall be made as promptly as possible.

The charitable institutions, unlike the hospitals for the insane, are not governed by a reasonably uniform law. There is wide diversity of legal provision with reference to number of managers, their terms of office, their qualifications, their removal, and with regard to the powers of the managers and of the superintendent in relation to the appointment of subordinate officers and employees. Some institutions are required to report to the Legislature, and others to the State Board of Charities. While absolute uniformity may be impracticable, legislation should provide so far as possible for a uniform system of management.

*Hospitals for the Insane.*—The lease to the State of Ward's Island (the site of the Manhattan State Hospital), which will expire in 1912, should be extended if satisfactory arrangements can be made with the authorities of New York city. The overcrowding of the State hospitals is largely in the southeastern part of the State and an additional hospital should be provided there at the earliest possible moment. At the last session the Commission in Lunacy was authorized to take steps to procure a suitable site for this purpose near the city of New York and to report to the Legislature.

*Prisons; Parole Board.*—The commission to select a new site for Sing Sing prison has secured land for this purpose on the west bank of the Hudson river about forty miles from New York which it is believed possesses superior advantages. On account of conditions at the present prison, the work of construction should be expedited.

The legislation at the last session extending the provisions for parole of prisoners is of great importance and devolves largely increased responsibilities upon the members of the Board of Parole. The State cannot expect to retain the services of competent men unless more suitable provision is made for their compensation.

*Salaries in State Institutions; Purchases.*—Requests are being urgently made for the increase of salaries of employees in State institutions. While the State is the one employer, there are diversities in existing classifications and in the means of fixing salaries which are wholly unnecessary and subject the State to serious disadvantage. In some cases one portion of the State service in effect competes with others, and the want of harmonious action breeds widespread dissatisfaction.

The State Comptroller, and the president of the State Board of Charities, subject to the approval of the Governor, classify the employees of the charitable institutions and fix their salaries. In the hospitals for the insane a scale is provided by law subject to which salaries may be fixed by the Commission in Lunacy with the approval of the Governor, the Secretary of State, and the Comptroller. In the State prisons the salaries or maximum salaries are for the most part fixed by law.

Without losing the advantages of separate supervision of distinct classes of institutions, it is for the interest of the State to harmonize its financial operations. I recommend that in order to obtain desirable uniformity, and to provide a method by which any necessary changes may be effected with due regard to the entire service of the State, provision shall be made for the classification and fixing of salaries in the charitable institutions, in the hospitals for the insane, and in the prisons by a board of control in which the respective



classes of institutions, through their supervisory boards and officers, shall have suitable representation.

The same reason obtains with reference to purchases of provisions and supplies in the various institutions. To a large extent supplies of the same sort are required in the different institutions, and it is desirable that these should be purchased by the State under one system and through a single board. This can be accomplished by having purchases made through the same board of control, representing all institutions, as that which fixes the salaries.

The action of the board may be made subject to the approval of the Comptroller and the Governor.

To promote convenience of administration in the offices of the State Architect and the Fiscal Supervisor, provision should be made for a deputy who in the absence of the officer can act in his place.

#### AGRICULTURE.

No effort should be spared to conserve the development of the agricultural interests of the State. Important provision has been made for instruction in agriculture and in veterinary science at the colleges established in connection with Cornell University and for scientific experimentation at the Agricultural Experiment Station at Geneva, and through these foundations steadily increasing benefits will accrue to the people of the State. The provision for instruction, however, is not adequate. There is much to be said in favor of the establishment of a secondary agricultural school which would provide a suitable complement to the work of the college at Ithaca. There is a favorable opportunity for the establishment of such a school upon an economical basis in connection with Alfred University, and I submit the matter to your consideration.

I recommended last year that plans should be made for the comprehensive and adequate development of the State Fair in a manner which would avoid haphazard or ill-considered improvements merely designed to meet temporary exigencies. In accordance with the directions given at the last session a complete scheme of improvement has been prepared, and will shortly be submitted to the Legislature. The development of course must be gradual and without extravagance. But by

making substantial progress each year, so that what is done shall fit into a suitable general plan, economy will be promoted and the result will be worthy of the State.

The services of the State Fair Commissioners have been rendered without compensation and are deserving of grateful appreciation. As the fair assumes larger proportions it is necessary, however, to consider improvements of the system of administration. The question is presented whether it will not be in the interest of the State to reduce the Commission to a small number with some provision for compensation.

I call your attention to the serious importance of dealing with the question of bovine tuberculosis. The disease is spreading, and we not only suffer from what may be called its natural increase, but the measures that are taken in neighboring communities for their own protection have made our State the recipient on a large scale of tuberculosis cattle which have been rejected elsewhere. Such a condition is intolerable and the people of the State should be alive to the necessity of taking most stringent means for their protection. The subject should be thoroughly examined and expert advice should be obtained as to the best measures to be adopted. There should also be provision for proper meat inspection. State inspection to ensure local protection, particularly with regard to the disposition of rejected animals, is a necessary supplement to Federal inspection in connection with interstate commerce.

#### LABOR.

The efficiency of the Labor Department has materially been increased by the reorganization effected under the legislation of the last session. Complaint is made of the enforcement of the provisions of the Labor Law relating to mercantile establishments on the ground that local boards of health who are charged with the duty of inspection are not in a position to give the matter requisite attention. It is urged that better results would be obtained if it were committed to the State Department of Labor. I present the question for your consideration.

It should also be considered whether it is not desirable to transfer to the children's courts cases of violations of the

provisions of the Labor Law affecting children, and prosecutions of parents for unlawfully permitting children to remain out of school. As children are necessarily involved in these cases, the same reasons which led to the establishment of children's courts would appear to justify the transfer.

The Bureau of Labor Statistics should be strengthened so as to permit an extension of its work, and to provide for special investigations so that the facts relating to particular problems can be secured and proper measures of relief may be planned intelligently. Industrial accidents form a subject which in this way might receive needed consideration.

The condition of immigrants from foreign countries who in large numbers remain in this State requires careful study. We cannot afford to ignore the situation and our first effort should be properly to understand it and to take whatever measures may be necessary to protect these newcomers from the special forms of imposition of which they are the victims and through a proper distribution to realize their economic value. The matter has many phases which may well form the subject of a special investigation. I recommend that provision be made for the appointment of a commission for this purpose. And as it is a field which has engaged the attention of many public-spirited citizens, I believe it would be possible to obtain a commission possessing the highest qualifications which would serve without compensation.

One of the most beneficial statutes of recent years is the Tenement-House Act, affecting the conditions under which so many of our people live in the crowded sections of our great cities. The consequences of evasion, if successful, are serious. I recommend the passage of such supplementary legislation as will strengthen the law, and I would urge the importance of maintaining unimpaired its salutary provisions.

#### FOREST PRESERVES AND GAME LAWS.

During the past year 46,156 acres of forest land have been purchased and contracted for by the Land Purchasing Board, making the total land held by the State 1,518,450 acres, of which 1,454,383 acres are in the Adirondacks and the remain-

der are in the Catskills. It would be difficult to name any matter of greater importance to the people than the conservation of our forests. To this end the State should largely extend its purchases and so far as possible avoid the increased cost which will be entailed by delay. Any effort on behalf of private interests to invade the common right in these lands and their maintenance for the public benefit should be defeated.

Not only should the State extend its holdings, but there should be suitable replanting to repair the extensive ravages which have taken place in our forest domain. Progress has been made in this work. Next spring there will be ready for removal from the State nurseries to the field about 550,000 trees of which 458,000 will be four years old and 92,000 three years old; 1,693,000 trees remain in the nurseries. In comparison with what has been done elsewhere in this country, the State has reason to be proud of what has been accomplished. But the work should be conducted upon a much larger scale. The State can produce these trees (pine and spruce) for about \$2.50 a thousand, and two men can plant about 1,400 trees a day. Our citizens should also appreciate the importance of tree planting upon their non-arable lands. It may be well that in view of the State's facilities, the Forest, Fish and Game Commissioner should be authorized to furnish from the nurseries pine and spruce trees to be planted under the supervision of the department, at a sum equivalent to the cost to the State; and I submit this question for your consideration.

For some years about forty statutes have been passed annually to amend the Forest, Fish and Game Law. Last year there were twenty-four amendments, and more than thirty additional bills, among the thirty-day bills, failed for want of approval. No sufficient reason appears for such a volume of legislation upon this subject. I recommend that the Forest, Fish and Game Law be carefully revised. It should be possible in the light of experience and with accurate knowledge of the needs of the various localities to provide a code which will be fairly permanent.

I recommend the enactment of a license law providing reasonable license fees for hunting, with a suitable scale for residents, non-residents, and aliens. The advisability of providing restrictions with reference to the carriage and possession of firearms, except during stated periods or under specified conditions, should also be considered. Such measures I believe would have the support of all those who are interested in the protection of game; and there is also presented the necessity of devising means to prevent the indiscriminate destruction of bird life which, through the consequent prevalence of insects, constitutes a serious menace to our agricultural interests.

#### WATER POWERS.

Under an act passed at the last session, an inquiry is now in progress through the Water Supply Commission with regard to the undeveloped water powers of the State. Means should be provided to enable this investigation to be completed with thoroughness. In the light of exact information, a proper policy with reference to the development and control of water powers should be established in order that these important sources of our prosperity may be held to the utmost extent possible for the benefit of all the people.

No grant should be made of water power privileges without compensation and under restrictions which will properly protect the rights of the public from whom the privileges are derived.

#### PUBLIC HEALTH.

The waste of life and productive energy which results from the prevalence of tuberculosis requires that every effort should be made to limit, if it is not possible to destroy, this scourge. It is gratifying that public sentiment is being aroused upon this question and that opportunity is afforded for the co-operation of public and private effort to attain the desired results. I recommend to the Legislature the adoption of such measures (including those already mentioned with respect to the milk and meat supply) which will tend to prevent the spread of this disease. Provision should be made for notification and

complete registration of cases and for the dissemination of necessary information. There should be suitable appropriations made to permit systematic effort under the direction of the Commissioner of Health.

#### PURE FOOD.

The laws relating to adulterations and impurities in food should be codified and presented in a single comprehensive statute. I recommend the passage of a pure food law which will prevent the sale of adulterated or improperly branded foods. The law upon this subject passed at the last session I was unable to approve as it contained provisions which in effect would have made its restrictions inoperative. It is important that such a law should be clear and precise and make evasion difficult, if not impossible.

#### QUARANTINE COMMISSIONERS AND HEALTH OFFICER.

With respect to the quarantine station at the port of New York there is a divided authority. The health officer has general supervision and control of the quarantine establishment and the care and treatment of the sick. He appoints all needed assistants, has charge of the inspection of vessels, and generally has the duty of adopting whatever measures are needed for the protection of the public health. The custody of Hoffman and Swinburne islands, where persons subject to quarantine are detained, is in the control of three quarantine commissioners. While expenditures for general quarantine purposes are made by the health officer, the commissioners have the care of the buildings and improvements on the islands, and make expenditures for repairs or additions according to their appropriations. They also care for the persons detained, through superintendents whom they appoint, the expense of such care being defrayed by the owners or agents of the vessels.

This division of authority answers no useful purpose. By far the most important part of the work of the station is now performed by the health officer, and it would not add in any impracticable degree to his responsibilities or require any in-

crease in his compensation if he were charged with the duties now devolved upon the commissioners and had the custody and control of the islands.

Treating the matter impersonally and without reflecting upon the commissioners, it seems to me that their offices are unnecessary and should be abolished.

At present the health officer receives an appropriation for his laboratory, but otherwise pays his expenses out of the fees received, accounting for the balance over his expenses and compensation to the treasury of the State. This is in accordance with the present law, but in my judgment it should be changed so as to provide that all fees be paid to the State Treasurer and that the expenses of the office be provided for by appropriation:

#### PORT WARDENS.

There is a board of nine port wardens of the port of New York who on request make examinations or surveys of property damaged on board of vessels, recording the results, of which they are authorized to furnish official certificates. They also have supervision of Hell Gate pilots, holding examinations, making recommendations for appointments, and establishing regulations.

Assuming that it is advisable to continue the office for the purpose of furnishing official certificates of surveys of vessels, it is apparent that the board as now constituted is unnecessarily large. There is not sufficient work to engage the attention of the present number. I recommend that the board of port wardens be reduced to five members, which will answer all purposes, even if jurisdiction over pilots be retained. But this it would seem might well be vested in the board of commissioners of pilots to which the Sandy Hook pilots are subject.

#### NATIONAL GUARD.

The commission appointed to inquire into the condition of the national guard and naval militia is about to submit a preliminary report. In order to conform to the requirements prescribed for the militia by the War Department under the Federal law of 1903, and in order to secure for this State its

share of the appropriation made by Congress, the necessary changes in the organization of the national guard must be made prior to January 21, 1908, when the time prescribed for that purpose will expire.

A bill which the commission has prepared making the necessary changes in organization will be submitted to the Legislature with its preliminary report. While it is possible that the time may be extended by Congress the subject is of great importance and it is desirable that action should be taken by the Legislature prior to the date mentioned.

#### JUDICIAL SALARIES.

The salaries of justices of the Supreme Court show extraordinary incongruities. The trial justices outside of the first, second and ninth districts receive \$7,200 a year each, \$6,000 as salary and \$1,200 as an allowance in lieu of expenses, which has been judicially construed to be a part of the compensation, and hence, under the Constitution, is not subject to change in the case of any justice during his official term. This amount has not been increased since 1872. But since 1898 the justices have been allowed actual expenses when holding court away from home. The justices in the first district receive the same salary and an additional compensation paid by the city of New York, making a total of \$17,500 each. In the second district the salary, the above-mentioned expense allowance, and the allowance paid by the counties, makes an aggregate of \$17,500; and the justices in the ninth district, which was created by a division of the second, and consists of the counties of Westchester, Putnam, Dutchess, Orange, and Rockland, receive a like sum (\$17,500).

A justice of the Appellate Division in the third or fourth department residing in the county where the court sits receives \$7,200. And a justice of the Appellate Division in either of said departments not residing in Albany or Monroe county receives \$9,700. Non-resident justices designated to sit in the Appellate Division of the first or second department receive extra compensation upon certificate, which makes their total compensation equal to that of resident justices.



The practice of increasing compensation by allowances in lieu of expenses should not be continued. Compensation should be fixed as such, and actual expenses when properly payable should be paid as such. In view of the constitutional provision that the compensation of justices shall not be increased or diminished during their official terms, I recommend that a resolution be passed proposing a constitutional amendment which shall fix the salaries of trial justices and justices of the Appellate Division of the Supreme Court on a suitable basis, and shall prohibit any other compensation or allowance in lieu of expenses.

#### CHAMPLAIN AND HUDSON-FULTON CELEBRATIONS.

Fitting preparation should be made for the celebration in the year 1909 of the three-hundredth anniversaries of the discoveries of Lake Champlain and the Hudson river. The former is an event of interstate and international importance, and a commission representing this State is co-operating with a Vermont commission in perfecting suitable plans. It is hoped that the Federal government will give assistance, and that through its offices the government of the Dominion of Canada and the Republic of France will be invited to participate.

In view of its far-reaching results the celebration of Hudson's discovery should be planned upon an adequate scale and in every respect should be worthy of the State. In connection with this celebration the first voyage of Fulton's steamboat up the Hudson river will also be commemorated. This subject is in charge of a commission which is giving the matter careful attention.

Suitable appropriations should be made for these purposes which can hardly fail to deepen the interest of our people, and notably of our youth, in the study of our history and to stimulate that patriotic sentiment which we should lose no opportunity to intensify.

In every department of administration the demand is urgently made for increased facilities. The activities to which

the State is committed, in its provision for education, in its charities, in the care of the insane and feeble-minded, in its prisons, reformatories and reform schools, constantly expand with inevitable requirements for betterments and extensions. There is also a growing appreciation of the needs of the people, and new opportunities for beneficial action by the State, without transcending proper limits, continually present themselves. It is of the highest importance that plans for development and extension should be examined most critically and with a fitting sense of proportion, to the end that moneys may be appropriated with due regard for economy and without either favoritism or waste.

Upon some claim of State obligation, requests are made annually for the expenditure of State moneys in connection with dams, bridges, and other works in various localities. In order that the State may perform its full duty to all localities impartially and at the same time be protected from all unmeritorious demands, the precise extent of such obligation should be ascertained and a comprehensive plan for their discharge should be formulated.

(Signed)

CHARLES E. HUGHES.

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## RACE TRACK GAMBLING

### Reply to Resolution of Inquiry from the Assembly

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, March 3, 1908.

*To the Assembly:*

I have received a copy of the resolution adopted by your honorable body in which you ask for a certain letter addressed to me by an alleged gambler, and any similar letters, or copies thereof relating to the pending bills to put a stop to race-track gambling.

I must respectfully decline to comply with your request. I am not acquainted with the person who signed the letter, nor, in view of his description of himself, should I care to make any assumption as to his responsibility. Although the letter was received at the Executive Chamber, I had not seen it prior

to its publication. And it goes without saying that such a letter could not be regarded as evidence that any of the members of your honorable body have been or would be susceptible to improper influences. The transmission of the letter could serve no purpose except, perhaps, to expose the author to the revenge of the fraternity whose traditions he had violated. I may add that I have no additional letters similar to the one to which you specifically refer, although I have a very large number from citizens who desire to see the bills passed and from those who recite the distress and demoralization which as is well known have been the natural consequence of the practices at which the bills are aimed.

I give no credence to any report that the members of your honorable body would be deflected from their manifest duty by an attempt, if any such were made, on the part of those who have vast interests at stake in this matter to corrupt their judgment. On the contrary, I have implicit confidence that the Legislature will carry into effect the constitutional mandate and will purge our State of this source of misery and vice which exists only because the will of the people, flatly declared in the fundamental law, has not been carried into effect.

On the one side we have the plain provision of the Constitution that pool-selling and book-making shall not be allowed in this State and that the Legislature shall pass appropriate laws to prevent these offenses.

On the other side stand those who would sacrifice the morals of our youth by extending the area of unnecessary temptation; who would inflict needless suffering upon helpless women and children, dependent upon the cultivation of thrift and industry; and who would imperil the welfare of thousands of our people, simply because of their selfish desire to make money out of gambling privileges. They fatten upon wretchedness, and have the effrontery to demand that the laws of the State shall be adapted to their purposes.

Your honorable body knows that pool-selling and book-making at race tracks are not now prevented by appropriate laws as the Constitution requires but flourish substantially unrestricted under what amounts to legal protection. This is a scandal of the first order and a disgrace to the State. The

bills are not aimed at racing or at race tracks or at property. They are aimed at public gambling, prohibited by the Constitution, condemned by the moral sense of the people, irrespective of creed, and conceded to be the prolific source of poverty and crime.

I sincerely trust that nothing will divert your attention from this main issue and that the Legislature, acting in obedience to the constitutional provision, will free us from a curse of which no just defense is possible, and thus command the approval and the confidence of the people of the State.

(Signed) CHARLES E. HUGHES.

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### **Resolution Passed by the Assembly**

In Assembly, March 2, 1908

Mr. Hammond offered for the consideration of the House a resolution in the words following:

WHEREAS, It appears by the public press that the Governor of this State has received, and is in possession of a letter addressed to him by an alleged gambler, stating in effect, that it is the intention of the opponents of the so-called anti-racing bills to defeat the same in the Legislative Committees having jurisdiction thereof, and the Legislature by the use of money, and that members of the Legislature have already indicated that they are subject to influences of such character: now be it

*Resolved*, That the Honorable Charles E. Hughes, Governor, be and hereby is respectfully requested to transmit said letter or a copy thereof, and any other letters or copies thereof, of a similar character, relative to said subject-matter, together with a statement as to his knowledge or information as to the identity and responsibility of the authors thereof, to the Assembly for the information of said Legislative Committees and the Legislature.

Mr. Speaker put the question whether the House would agree to said resolution and it was determined in the affirmative.

STATE OF NEW YORK, }  
COUNTY OF ALBANY, } ss.:  
Office of the Clerk of  
the Assembly. }

I, Ray B. Smith, Clerk of the Assembly, do hereby certify that I have compared the foregoing resolution with the original thereof as contained in the original copy of the official journal of the proceedings of the Assembly of the State of New York, of the second day of March, 1908, now on file in my office, that the foregoing is a true and correct transcript of said original resolution and the action of the House thereon and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto affixed my hand and official seal this third day of March, 1908.

(Signed)

RAY B. SMITH,

[L. S.]

Clerk of the Assembly.

### Special Message

*Relating to Race-Track Gambling, Supervision of Banks and Trust Companies, Direct Nominations, Regulation of Telephone and Telegraph Companies, Rapid Transit in New York City, Improved Highways, Abolition of the Quarantine Commission, Reduction of the Number of Port Wardens, Canal Land Appraisement, and for Commissions to Inquire into and Report upon Speculation in Securities, the Condition of Immigrants, the Condition of the Unemployed and Inferior Courts of Criminal Jurisdiction*

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 9, 1908.

*To the Legislature:*

I again urge you to enact appropriate legislation to abolish the existing discriminations in favor of race-track gambling.

The failure of the upper branch of your honorable body to pass the measures designed to effect this purpose after their passage in the lower branch cannot be regarded as disposing

of the matter. The Constitution, with its peremptory mandate, still stands. It provides:

“Nor shall any lottery, or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this State; and the legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.”

The evil of race-track gambling flourishes not in spite of the law, but because of the law. Legislation pretending to carry out the constitutional provision in effect nullifies it. You are not asked to accomplish the impossible, or to write upon the statute books a visionary scheme of moral reform. You are asked to rid our law of a vicious discrimination whereby offenses equally condemned by the Constitution are punished as crimes if committed in one place, and are encouraged by the absence of suitable penalty if committed in another.

Chapter 570 of the Laws of 1895, known as the Percy-Gray Law, pretends in its provisions with regard to authorized race tracks to prohibit gambling. This pretense runs through the act. But it cheats the prohibition by providing that the only penalty, if no memorandum or token of the wager be delivered, shall be liability to a civil suit for the money lost. If ever it was supposed that this was an appropriate law to prevent the offenses mentioned in the Constitution, no one now cherishes the illusion. It is a mockery of prohibition, and pool-selling and book-making flourish at the race tracks as though they were legally authorized. Not only is this the result, but the enforcement of the law elsewhere is embarrassed by these undemocratic discriminations.

It is not a question for the Legislature whether this vice should be permitted or regulated. Under the Constitution the Legislature has no right to permit it or to regulate it. The people have spoken upon that question. You are asked to make existing prohibitions effective. Instead of virtually protecting pool-selling and book-making upon the race tracks,—instead of favoring them and subjecting them to an inadequate penalty,—the law can and should effectively prohibit them

by imposing penalties similar to those which are visited upon identical offenses elsewhere.

The demoralizing influences and the menace to the welfare of the State which are involved in the continuance of this evil are obvious. Still more important is the necessity of vindicating the fundamental law of the land and of demonstrating that this is a State where law and order prevail and where no interest is powerful enough to keep upon the statute books deceitful provisions whereby prohibition becomes profitable license and a favored class of lawbreakers are afforded substantial immunity.

Respect for law is the security of our government, and the guarantees of the rights of liberty and property will not long avail if the people are taught to view the Constitution with contempt.

I, therefore, urge you to discharge a manifest duty and to end the discriminations in favor of race-track gambling which cupidity inspired and now seeks to maintain.

I also urge upon you the importance of the enactment, before the adjournment of your honorable body, of suitable legislation with regard to the following matters:

Provision for such additional amendments to the law as may be needed to secure the proper conduct and adequate supervision of banks and trust companies and their economical liquidation in accordance with my former recommendations.

Amendment of the Primary Election Law so as to make proper provision for direct nominations and an official primary ballot in suitable form.

Amendment of the Public Service Commissions Law substantially in the manner recommended as the result of the experience of the Commissions, and also for the purpose of providing appropriate regulation for telephone and telegraph companies.

Amendment of the Rapid Transit Law for the purpose of facilitating, under adequate restrictions in the public interest, the building of subways in the city of New York.

Amendment of the law so as to consolidate our highway statutes and provide a suitable scheme for the construction and maintenance of highways.

Abolition of the commissioners of quarantine and the devolution of their duties upon the health officer of the port of New York.

Reduction of the number of port wardens of the port of New York from nine to five.

Provision for a more economical system of appraising lands taken for canal improvement.

There are also questions which it is important should form the subject of authoritative investigation. They are closely related to the welfare of the people and cannot be dealt with satisfactorily unless the conditions are accurately known and carefully studied.

I recommend that provision be made, by commissions serving without compensation but with proper appropriations for expenses, for suitable inquiry into the following matters:

1. The facts relating to speculation in securities and commodities with the view to ascertaining the manner in which illegitimate transactions may be prevented and legitimate business safeguarded;

2. The condition and distribution of immigrants from foreign countries who are resident within this State and the measures which may be practicable to remedy existing abuses;

3. The number and condition of the unemployed and the means best adapted to secure a resumption of productive activity;

4. The methods and procedure of inferior courts of criminal jurisdiction where it would seem that our system of administering justice may be greatly improved.

(Signed) CHARLES E. HUGHES.



## TO THE EXTRAORDINARY SESSION

**Recommending Legislation for Telephone and Telegraph Companies, for Direct Nominations, for Reducing Fraudulent Voting, for the Government of Political Parties, for the Support of the Bureau of Mercantile Inspection, for the Payment of Excise Tax Rebates and for Commissions to Inquire into and Report upon Speculations in Securities, and the Condition of the Unemployed**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 11, 1908.

*To the Legislature:*

I have convened you in Extraordinary Session because there are matters of serious importance which I deem it my duty to present to you for appropriate action.

I recommend for your consideration at this time the following subjects:

1. The amendment of the Public Service Commissions Law by making suitable provision for the enlargement of the jurisdiction of the Public Service Commissions so as to bring telephone and telegraph companies under proper regulation; and also such other amendments of the statutes as may be deemed advisable in the light of the experience of the Commissions in order more fully to accomplish the purpose of the Public Service Commissions Law.

The policy of the State with regard to the supervision of public service corporations should be uniform and embrace all corporations of this character. Telephone and telegraph companies exercise important public franchises. The community should be protected against extortionate rates and machinery should be provided for an adequate supervision of operations and service. Issues of securities should be made only under appropriate public scrutiny to prevent the evils of unwarrantable inflation. The State should protect its citizens from exploitation on the part of those who enjoy public privileges and

undertake public service, while at the same time by provision for thorough investigation and the careful examination of facts by an administrative board suitably equipped for this purpose, the evils of ill-considered and arbitrary action before the facts have been properly ascertained, should be avoided. Justice to the community does not involve injustice to private rights. The provision of adequate means for the exercise of the State's authority of regulation so as to ensure the performance of public obligations in a just and impartial manner, is of the highest importance to the good order of the community and to the welfare of all the people. The State cannot afford to be lax in the exercise of its supervisory powers, but they should not be exercised without due regard to the varying problems of numerous particular cases. The subjects of complaint in connection with the operations of public service corporations involve so many considerations, and demand such patient, expert, and thorough inquiry, that they cannot be dealt with to advantage through sporadic legislative action.

The plan which was adopted last year of establishing public service commissions has worked admirably, and indeed as an adequate scheme of regulation presents the only alternative to legislative action, which is manifestly not as well adapted to the just settlement of the great variety of grievances which must be dealt with separately and after investigation and are susceptible of a fair disposition only through a continuous administrative board.

The plan should be made comprehensive; and now that the Commissions have been organized and are in working order, it is proper that telephone and telegraph companies should be brought under their supervision. This may be made effective as early as October 1, 1908. Action now will save at all events many months, and most probably, a year's delay in establishing this important jurisdiction.

Along with this extension of jurisdiction, it is also important that as promptly as possible, whatever amendments of the existing law experience has shown to be advisable, should be supplied. A bill for these purposes was introduced at the regular session, and passed the Senate. I earnestly recommend this matter to your careful consideration.

2. The amendment of the Primary Election Law so as to make suitable provision for direct nominations and an official primary ballot.

This will have a most salutary effect in preventing the perversion of party organization to selfish uses. Party nominations should accurately reflect the will of the enrolled voters, and provision should be made for the expression of this will as directly as possible. The organization of parties, not merely in theory but in fact, should accord with the spirit of our institutions; it should be democratic and not oligarchic or despotic. The voters should be able, if they so desire, to choose their candidates, and elected representatives should recognize their accountability directly to their constituents. It is a perversion of the machinery designed to carry on a free government that those who are elected to office should regard themselves as the appointees of individuals, responsible to them for their acts, and dependent upon them for their continuance in political life. In order that they may be free in fact, as they are in theory, to discharge the duties of office according to their conscience, and consistently with their professed principles, they should be able to rely upon continued confidence reposed in them by the communities which they represent. Electoral machinery should not be so devised as to enable individuals to thwart or ignore the will of the people by control of the instrumentalities of nomination. Party leadership, if skillful and unselfish, and party organization, if it be inspired in its effort by honorable devotion to party principles, cannot fail to command just recognition and esteem. But there is a prevalent tendency to use forms of association for purposes the reverse of those for which they have been designed. And to prevent such encroachments constant vigilance is necessary. This is the more important in connection with the administration of party affairs, because of the absorption of our people in the activities of their business life and the readiness with which control is gained by small bodies of men who are anxious to secure and hold it. No party man, however zealous, can object to the utmost freedom on the part of the members of his party of expressing their will,

particularly in the choice of those who are to represent them as candidates for office. While on the other hand opportunity for such free expression constitutes an important safeguard against the misuse of delegated powers and promotes the effectiveness of organized effort which depends for its true success upon the confidence it inspires through its representative character.

I recognize the fact that, with regard to this matter, different situations exist in different communities. But whatever objection may be urged at this time to a provision of a mandatory character, there can be no valid objection to the incorporation in the Primary Election Law of a provision which will permit the adoption of a plan for direct nominations in those communities where it is desired. This is the principle of the present law, but its provisions have been found to be inadequate and impracticable. It is highly important that a fair, complete, and workable scheme should be supplied to carry out the intent of the existing statute. A denial of the privilege of direct nominations to the enrolled voters of a district where it is desired cannot be justified. It would imply a distrust of the voters and of the very basis of our republican form of government. On the other hand the adoption of a plan for such nominations where the sentiment of the enrolled voters demands it will serve to demonstrate its merits in the course of actual experience and provide an available remedy for notorious abuses.

Provision should also be made for additional protection against the commission of frauds in primary elections. With respect to this, provision for an official primary ballot is of the utmost importance. It is generally agreed that this will accomplish much in preventing fraud. The ballot should be in such form as to put the enrolled voters upon a proper basis of equality.

3. The amendment of the Election Law so as to provide, wherever experience shows it to be necessary, for a more complete identification of voters in connection with registration and thus reduce the opportunities for fraudulent voting.

4. The amendment of the law so as to make more adequate

provision for the government of political parties and to furnish suitable protection against corrupt or arbitrary action.

In my first message to the Legislature I said with regard to possible abuses by State conventions and committees: "If such dangerous practices are not forbidden by existing laws, and proper remedies do not exist for the correction of such serious abuses, it is time that statutes adequate for this purpose should be promptly enacted. The same policy which governs in the case of minor conventions and committees should apply to State organizations. Minorities should not be permitted to make themselves majorities by the arbitrary seizure of political organizations, nor through corruption or dishonest methods, and the courts should be vested with ample power to review in a summary manner all such abuses, and to restore to defrauded persons the political rights to which they are justly entitled. This is not a partisan matter, but it is one in which all who believe in fair play and honorable political methods are deeply interested." I again invite your consideration of this matter.

5. The amendment of the Labor Law so as to provide for a Bureau of Mercantile Inspection in the Labor Department and to place with the Commissioner of Labor the enforcement of the law relating to mercantile and other establishments mentioned in section 161 of the law, at least in the larger cities. It is apparent that local boards of health in the large cities are not in a position to give this matter suitable attention. The enforcement of the law with regard to child labor is a matter of the greatest importance, and it will be more largely secured by placing it, in connection with these establishments, with the State Commissioner of Labor.

The supply bill passed at the regular session carries appropriations to enable the Labor Department to undertake this work. But the necessary amendments of the substantive law have not been made.

6. The making of a suitable appropriation for the payment of rebates on surrender of liquor tax certificates under the provisions of the Liquor Tax Law. There was appropriated for this purpose at the regular session \$300,000. But in view

of the change of the date from which tax certificates are hereafter to run, not more than a third of this amount will be required. I recommend that \$100,000 be appropriated for this purpose, which will permit an unnecessary charge against the income of the State to be eliminated.

I also renew my recommendation made to you at the regular session that provision be made by commissions serving without compensation but with proper appropriations for expenses, for suitable inquiry into the following matters:

*a* The facts relating to speculation in securities and commodities, with the view to ascertaining the manner in which illegitimate transactions may be prevented and legitimate business safeguarded.

*b* The number and condition of the unemployed within the State and the means best adapted to secure a resumption of productive activity. That the situation with regard to the unemployed is exceedingly grave cannot be gainsaid. And I deem it important that there should be an intelligent and thorough inquiry and due consideration of the facts as ascertained.

I recommend these subjects for your consideration.

I have called a special election in the Forty-seventh Senatorial District to fill the vacancy in the Senate caused by the death of Honorable Stanislaus P. Franchot. This election is to be held on May 12, 1908. I make no further recommendation at this time, but it is my intention later to lay before you the important matter of abolishing the existing discriminations in favor of race-track gambling, and of enacting appropriate legislation in accordance with the constitutional mandate for the prevention of this evil.

(Signed)

CHARLES E. HUGHES.

**TO THE EXTRAORDINARY SESSION****Recommending Legislation upon Various Subjects**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 27, 1908.

*To the Legislature:*

In view of their urgency I recommend the following subjects for your consideration:

1. The amendment of the law relative to the Court of Claims so as to provide for the enlargement of its jurisdiction in an appropriate manner.

A bill for this purpose was passed at the regular session and after careful consideration of its provisions I was unable to approve it, having reached the conclusion that it conflicted with Article VII, section 6, of the Constitution limiting the claims which can be allowed by the Legislature. It is of great importance that we should have a general statute enlarging the jurisdiction of the Court of Claims, thus providing for meritorious claims which come within the policy of such a general law, and putting an end to the practice of seeking this result by the passage of special bills in aid of particular cases.

2. The making of suitable appropriation to provide for the elimination of grade crossings.

It appears that the item in the supply bill which has been approved is not adequate. The appropriation of 1906, of which there is a considerable balance, will expire in a few days. I recommend that this be reappropriated.

3. The making of suitable appropriation to cover the expense of the appeal to the Supreme Court of the United States in the case of the Consolidated Gas Company of New York against William S. Jackson *et al.*, including the necessary amounts to provide for the certification of the record and the deposit with the clerk of the Supreme Court to cover costs.

It appears that no appropriation is available to cover the payment and deposit required in order to avoid a dismissal of

the appeal which has been advanced and set for argument next fall, and immediate provision should be made for this purpose.

4. The amendment of the law as to the State Farm for Women so as to give authority, if such course be found feasible, for the establishment of the farm on the property owned by the State at Comstock, or any part thereof, and avoid the necessity of acquiring another site.

5. The amendment of the Village Law authorizing villages to borrow money in anticipation of taxes prior to annual levy, with suitable restriction.

A bill to this effect was passed at the regular session, but could not be signed as it conflicted with a law passed at the same session amending the same section.

6. The passing of suitable legislation with regard to the finances of the city of New Rochelle so as to provide for the authority for the issue of bonds and whatever enabling and validating acts may be needed to put the city in sound financial condition.

7. Authorizing the village of Geneseo to submit to the electors the proposition of issuing bonds for the purpose of improving streets and highways and making provision therefor.

8. Providing in a suitable manner for the legalization of taxes and bond issues and all proceedings preliminary thereto and granting appropriate authority in the following cases:

*a* With regard to the sewer system of Mount Kisco, and the agreement relating thereto made with the city of New York.

*b* With regard to Union Free School District No. 6 of the towns of Rye and Harrison, Westchester county, and the erection of a new school building or addition to the present building in the town of Harrison, and for the purchase of apparatus and furniture and fixtures therefor.

*c* With regard to the construction of a village hall in the village of Tannersville, Greene county.

*d* With regard to the building of a bridge over the Oriskany creek in the town of Whitestown, Oneida county.

9. Providing for harbor facilities in connection with the barge canal at Syracuse.



A bill for this purpose was passed at the regular session and failed because of an error with regard to the route of the canal.

All these matters I am assured are of urgent importance to the communities affected.

(Signed) CHARLES E. HUGHES.

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## TO THE EXTRAORDINARY SESSION

### **Recommending Legislation for the Prevention of Race-track Gambling and in Relation to Other Subjects**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 8, 1908.

#### *To the Legislature:*

I recommend for your consideration the enactment of suitable legislation for the prevention of race-track gambling.

The issue has been clearly presented whether the interests of those who wish to maintain gambling privileges at race tracks shall be considered paramount to the Constitution of the State. It is an issue which has been clearly defined and is fully appreciated by the people. It cannot be obscured by a discussion of the propensities of human nature. Race-track gambling exists not because it is hidden or elusive, but as an organized business shielded by legislative discrimination. The law which professes to prohibit it in fact protects it.

At the regular session, the lower house of your honorable body by a large majority passed bills designed to remedy this evil. They failed in the upper house by a tie vote in the absence of a full representation. This could not be regarded as decisive. It only served to illumine the issue and to make still more clear the nature of the test it involves. Nor can the question be finally disposed of save by vindicating the honor of the State and by demonstrating that there is no power, however strong or unscrupulous, which can be per-

mitted to override the will of the people as expressed in the fundamental law.

The history of the constitutional amendment leaves no doubt as to its object. There never has been a case where the people in adopting a constitutional provision had a more definite purpose. The Legislature in 1887, by excepting certain times and places from the operations of the Penal Code, had legalized gambling at race tracks. Despite protests the law remained unrepealed. The Constitutional Convention prepared an amendment so as to make it impossible for the Legislature to legalize gambling at race tracks and so as to enjoin upon the Legislature in explicit terms the duty of preventing it. This is clearly shown in the debates of the Convention, which adopted the amendment by an overwhelming vote. It also appears that the sweeping form of the amendment was chosen in order to leave no opening for evasion and because of fear that practices substantially equivalent to those which had been allowed might otherwise be continued under new names. The provision recommended by the Convention was adopted by the people, and yet the practices it aimed at still continue to all intents and purposes as though they were legalized. We thus have the spectacle of the practical nullification of the Constitution and of the open disregard of a popular mandate in a matter of gravest concern to public morals.

While the so-called Percy-Gray Law (Laws of 1895, chapter 570) in form prohibits race-track gambling, the penalty it provides is so utterly inadequate as to amount to no penalty at all. Whatever may have been the supposition as to the sufficiency of the penalty, there can be no illusion about the matter at the present time. So long as the formalities of the statute are complied with, book-making at the race tracks, maintained under authority of law, continues as a favorite of legislation instead of being under an appropriate ban. This results from the fact that race-track gambling has been taken out of the provisions of the Penal Code which relate to similar offenses elsewhere. These offenses upon race tracks have been made a favored category with an exclusive penalty. Book-making elsewhere is a crime; upon the race tracks, under

the prescribed conditions, it is not a crime. All provisions of the criminal law which might otherwise touch it are rendered inapplicable.

The efficacy of a prohibition lies in the penalty by which it is enforced. The exclusive penalty for race-track gambling, if the conditions are observed, is liability to a civil suit to recover the money lost. And thus the prohibition of the Constitution is made a farce.

It is within the power and it is the duty of the Legislature to provide a remedy. It has simply to repeal the discriminating provisions of the Percy-Gray Law under which the evil is fostered. It has simply to remove the exceptions which take these practices out of the Penal Code and to perform its duty under the Constitution of providing appropriate penalties to prevent these offenses. And in order that the penalties should be efficacious, the offenses described in section 351 of the Penal Code, whether committed on or outside race tracks, should be punished by imprisonment and the alternative of fines should be abolished.

Racing and lawful sport should be able to flourish without gambling. And there seems to be no reason why book-making should be regarded as essential to the breeding of horses. But this is beside the mark. The question is neither as to sport nor as to horse breeding, but as to the enforcement of the constitutional provision in its application to a plainly preventable evil, the continuance of which outrages the moral sentiment of the State and does violence to our respect for law and order.

We desire to maintain the standards of thrift and industry, and to safeguard the morals of our youth from those unnecessary temptations which exist by reason of the pernicious discriminations of the present law. Above all we must maintain regard for the Constitution and the law, and confidence in impartial administration. These are our underlying securities, and it is dangerous to impair them. If we are to preserve our institutions in their integrity and our growing population is to cherish the fundamental guarantees which protect the rights of property and the rewards of honest endeavor, we cannot

permit the solicitations of avarice to triumph over the command of the Constitution.

I, therefore, respectfully urge upon you the most serious consideration of this matter.

I also recommend for your consideration the enactment of suitable legislation with regard to the diseases of cattle, especially tuberculosis. I disapproved the bill which was passed at the regular session with regard to this subject, because of defective administrative features and of the failure to supplement it by adequate appropriation. And I trust that legislation will be enacted which will be free from the objections which were urged on behalf of the farmers to the former bill and which will fairly meet the requirements of all interests. The matter is one of great importance and I believe that the farmers are prepared to co-operate with the Department of Agriculture in making effective reasonable measures to control the spread of the disease. Scientific investigation, the diffusion of necessary information, and careful procedure should be provided for, to the end that the matter may be dealt with intelligently and effectively, and with due regard to the means best adapted for that purpose. Provision should also be made for proper compensation to the owners of cattle taken by the State and adequate appropriation should be made therefor.

I also recommend for your consideration the following subjects:

1. The amendment of the charter of the city of Watertown with regard to the amount which may be raised by taxation in said city and the grant of authority for that purpose. This is of extreme importance by reason of an inadvertent error in the revision of the charter at the regular session.

2. Provision for the abolition of the railroad grade crossings at Brown street in the city of Rochester. A bill for this purpose was passed at the regular session, but could not be approved because it was not returned with the acceptance of the city within the time provided in the Constitution. The measure is essential to the safety of the people of that city.

(Signed)

CHARLES E. HUGHES.

**TO THE EXTRAORDINARY SESSION****Recommending an Appropriation for the Expenses of the Session**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, June 11, 1908.

*To the Legislature:*

I recommend for your consideration the subject of making suitable appropriation for the expenses of this session.

(Signed) CHARLES E. HUGHES.

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**Recommending Honors to George Clinton, First Governor of the State**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 26, 1908.

*To the Legislature:*

The remains of George Clinton, first Governor of New York, being about to be removed from their resting place at Washington, are to be received in this State with appropriate honors, and are to be reinterred in the churchyard of the First Dutch church at Kingston on the 30th day of May, 1908.

In view of the long and distinguished public service of General Clinton and his official relation to the government of this State, it is fitting that the Legislature, through suitable representation, should participate in the ceremonies at Kingston. And I recommend that proper action be taken for that purpose.

(Signed) CHARLES E. HUGHES.



### **III**

## **VETOES**





### III

## VETO MESSAGES

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### **Changing the Name of the First Presbyterian Society of Bethel**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, March 13, 1908.

*To the Senate:*

I herewith return, without my approval, Senate Bill No. 202, entitled "An act to change the name of the First Presbyterian Society of Bethel, a religious corporation located in the village of Gorham, in the county of Ontario, to the First Presbyterian Society of Gorham."

The object of this bill can be accomplished under the provisions of the Code of Civil Procedure relating to proceedings to change the name of a corporation.

(Signed) CHARLES E. HUGHES.

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### **Providing for an Increase of the Amount Allowed to be Expended by the Receiver of Taxes and Assessments of Saratoga Springs**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 9, 1908.

*To the Senate:*

I return herewith, without my approval, Senate Bill No. 882, entitled "An act to amend chapter three hundred and twenty-three of the laws of eighteen hundred and seventy-two, entitled 'An act authorizing the election of a receiver of taxes

and assessments for the town and village of Saratoga Springs.' ”

This bill provides for an increase in the amount allowed to be expended by the receiver of taxes and assessments for the town and village of Saratoga Springs, and provides for the distribution of the fund in his hands over and above salary and expenses.

If there is to be any change in the act sought to be amended by this bill, it should leave the determination of the amount to be allowed the receiver to the local authorities.

(Signed) CHARLES E. HUGHES.

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### **Increasing the Salary of the City Engineer in Cities of the Second Class**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 17, 1908.

*To the Assembly:*

I return herewith, without my approval, Assembly Bill No. 473, entitled “An act to amend the uniform charter of cities of the second class, relative to the salary of city engineer.”

This bill amends section 16 of the second class cities charter so as to provide for an increase in the salary of the city engineer in cities of a certain population. Another bill, however (Senate Bill No. 877), has been passed, amending the same section so as to provide that the board of estimate and apportionment, in a specified manner, may increase or reduce the salaries of the corporation counsel and city engineer, respectively, with the approval of the common council. It is evident that both these bills cannot become laws. And as the Senate bill is of general application and provides a method by which the salaries in question can be raised through the proper action of the local authorities, I have decided to approve it and withhold my approval from this bill.

(Signed) CHARLES E. HUGHES.

**Permitting an Increase in the Salary of the Court Crier  
of Oneida County**

STATE OF NEW YORK — EXECUTIVE CHAMBER. \*

Albany, April 17, 1908.

*To the Assembly:*

I return herewith, without my approval, Assembly Bill No. 895 (Senate reprint No. 832), entitled "An act to amend the code of civil procedure, relating to court crier in the county of Oneida."

This bill provides in effect that the compensation of the crier in Oneida county shall be fixed by the board of supervisors at a sum not to exceed \$900 a year. The County Law provides generally for the compensation of court criers, and if this is to be changed the matter should be left, by suitable amendment, to the local authorities. The practice of legislating specially on this subject with regard to particular counties should not be encouraged. This bill is objectionable upon this ground, and also because it, for practical purposes, fixes the compensation. Experience shows that the compensation actually allowed under legislation of this sort is the amount provided for as the maximum, and if it becomes advisable to increase the compensation further special legislation becomes necessary. The preferable course is to leave the matter by appropriate general law to the local board which is responsible to the community for the expenditure of the public moneys.

(Signed) CHARLES E. HUGHES.

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**Providing for the Release of the Interest of the State in  
Certain Escheated Property to Christine Zons**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 21, 1908.

*To the Assembly:*

I return herewith, without my approval, Assembly Bill No. 490, entitled "An act to release to Christine Zons, all right,

title and interest of the people of the state of New York, in and to certain real estate situated in the borough of Queens, city of New York, county of Queens, state of New York, acquired by escheat or otherwise, upon the death of Patrick Campbell."

This bill provides for a release of the interest of the State in certain escheated property. The Public Lands Law provides a method by which the Commissioners of the Land Office may grant releases in cases of escheat. Applications of this sort should be made under the general law, and if that law fails to meet cases which should be brought within its purview it should be amended. There is no justification for special legislation of this character.

(Signed) CHARLES E. HUGHES.

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### **Amending the Railroad Law in Relation to Installing Water Closets**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 22, 1908.

*To the Senate:*

I return herewith, without my approval, Senate Bill No. 577 (Assembly reprint No. 1872), entitled "An act to amend the railroad law, in relation to installing water closets on cars of certain steam surface and street railroads and at stations, and providing penalties."

This bill provides among other things that it shall not be lawful for any steam surface or street railroad corporation to use or operate any closed passenger car seating more than forty-five passengers for a distance continuously twenty-five miles or more, the greater part of which shall be over a private right of way unless the car is equipped with at least one suitable water closet.

The general purpose of the bill may be commendable, but in this form it is clearly objectionable. There would seem to be no reason why the convenience should be provided for a car seating forty-five passengers and not for one seating a less

number. In many cases the corporation affected might escape the additional expense by removing a few seats and thus increase the discomfort rather than add to the convenience of the traveling public.

The bill applies to a street railroad corporation the greater part of the prescribed route of which is over a private right of way. This assumes that a large part of the route may be in streets of villages and cities and along public highways. The objection to the use of water closets in such cases is sufficiently obvious. This bill does not contemplate the locking of the closet during any portion of the route, for if this were permissible it might be closed altogether and render the statute of no effect. It would seem that this is a matter which can be dealt with, wherever advisable, under suitable regulations through the action of the Public Service Commission.

(Signed) CHARLES E. HUGHES.

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**Amending the Code of Civil Procedure in Relation to  
Adjournments Where an Attorney is a Member of  
the Legislature**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 22, 1908.

*To the Senate:*

I return herewith, without my approval, Senate Bill No. 484, entitled "An act to amend the code of civil procedure, in relation to adjournments where an attorney is a member of the legislature."

The bill provides that upon the trial or hearing of an action or proceeding in which an attorney of record is a member of the Legislature and it appears that he is actually engaged in attendance upon legislative duties it shall be adjourned for at least one week and may thereafter be adjourned to such date as will meet the convenience of such attorney and not interfere with his duties as a member of the Legislature.

This would open the door to grave abuses. It will be noticed that the provision relates to adjournment *upon* a trial or hearing. It makes compulsory an adjournment of at least a week by the simple expedient of making a member of the Legislature an attorney of record. It also explicitly authorizes adjournments which might tie up litigation during an entire legislative session.

The matter of adjournments of legal proceedings should be left generally to the courts to be provided for by suitable rules, and the delays of litigation should not be increased by an enactment of this character.

(Signed) CHARLES E. HUGHES.

## VETO MEMORANDA

### Statement of Appropriations

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Memorandum filed with Assembly Bill No. 2314, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

The total appropriations, according to the

Comptroller's statement (exclusive of canal and highway sinking funds and highway improvement fund), which have been made by

the Legislature this year amount to..... \$29,593,872 14

Bills and items disallowed by me

amount to ..... \$609,041 65

Of this, the following amount

for building on the Comstock

site was a reappropriation.... 50,000 00

559,041 65

Leaving a total of..... \$29,034,830 49

As compared with the appropriations of 1907..... \$28,867,855 46

This shows an increase of..... \$166,975 03

Among the appropriations this year for special purposes are the following, amounting to:

Manufacturers and Liberal Arts Building,	
State Fair . . . . .	\$220,000 00
White Plains Armory.....	75,000 00
State Farm for Women.....	100,000 00
Boys' Training School site.....	125,000 00
Secondary Agricultural schools at Alfred	
University and Morrisville.....	100,000 00
Eastern New York Custodial Asylum.....	188,575 00
Making a total of.....	\$808,575 00

The appropriation bills were framed with particular care, and the members of the committees having these matters in charge deserve high commendation for their fidelity in safeguarding the interests of the State.

(Signed) CHARLES E. HUGHES.

### **The Annual Appropriation Bill, Items Vetoed**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Statement of items of appropriation objected to and not approved, contained in Assembly Bill No. 2313, entitled "An act making appropriations for the support of government."

NOT APPROVED.

The following items, contained in Assembly Bill No. 2313, entitled "An act making appropriations for the support of

government," are hereby objected to and not approved for the reasons hereinafter stated:

*On Pages 60 and 61, Under Head of State Department of Excise.*

"REBATES.

"For the payment of rebates on surrender of liquor tax certificates, under the provisions of the liquor tax law, three hundred thousand dollars (\$300,000), or so much thereof as may be necessary."

In view of the change of the excise year this appropriation is unnecessarily large. Not more than one-third of the amount will be required. I have recommended to the extraordinary session of the Legislature that a suitable appropriation be made.

*On Page 69, Under the Head of Forest, Fish and Game Commission.*

"SHELL FISH DEPARTMENT.

"third grade, two employees, one thousand two hundred dollars (\$1,200)."

This is unnecessary.

*On Page 94, Under the Head of Printing.*

"\* \* \* together with the unexpended balances of any appropriations heretofore made for legislative printing, which are hereby reappropriated for the same purpose."

This appropriation is not made in accordance with article III, section 21 of the Constitution.

(Signed) CHARLES E. HUGHES.



**The Annual Supply Bill, Items Vetoed**

STATE OF NEW YORK — EXECUTIVE CHAMBER.\*

Albany, May 22, 1908.

Statement of items of appropriation objected to and not approved, contained in Assembly Bill No. 2314, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

**NOT APPROVED.**

The following items, contained in Assembly Bill No. 2314, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations," are hereby objected to and not approved for the reasons hereinafter stated:

*On Pages 11 and 12, Under the Head of Comptroller.*

**"BUREAU OF HIGHWAYS.**

"For the salaries for the fiscal year beginning October first, nineteen hundred eight:

"Of the chief of the bureau two thousand five hundred dollars (\$2,500);

"Eighth grade, one employee, one thousand eight hundred dollars (\$1,800);

"Fifth grade, one employee, nine hundred dollars (\$900)."

These items of appropriation for the next fiscal year have no proper place in the supply bill. The appropriation bill carries the salaries of two employees for this bureau.

*On Pages 46 and 47, Under the Head of Insurance Department.*

"For the establishment of a bureau for mutual fire insurance companies admitted to do business in this state:

"for the salaries of the employees to the first day of October, nineteen hundred nine, as follows:

"one employee at one thousand eight hundred dollars per year, two thousand five hundred fifty dollars (\$2,550);

"three employees at one thousand five hundred dollars per year each, six thousand three hundred seventy-five dollars (\$6,375);

"one employee at one thousand dollars per year, one thousand four hundred sixteen dollars sixty-five cents (\$1,416.65);

"for furniture, books, binding, blanks and stationery, two thousand dollars (\$2,000);

"for printing additional volume of insurance report, one thousand eight hundred dollars (\$1,800), or so much thereof as may be necessary."

I have disapproved Assembly Bill No. 2165 with regard to the admission of mutual fire insurance companies of other States to do business within this State, which would have made these items of the supply bill appropriate, and hence these items are not approved.

*On Page 51, Under the Head of State Commission in Lunacy.*

"For the preparation of plans and construction of one building at Comstock and for the installation of a system of water supply and sewage, which work shall be commenced as soon as conditions are favorable, fifty thousand dollars (re. \$50,000), which amount is reappropriated from the unexpended balance of appropriation for the preparation of plans and the construction of one building at Comstock, made by chapter six hundred eighty-six, laws of nineteen hundred six."

This is a mandatory provision that work shall be begun for the erection of a hospital for the insane at Comstock. The advisability of using the Comstock site for this purpose has been a matter of controversy, and the weight of opinion is decidedly against it.

The site at Comstock may, in my judgment, be made available for other purposes, and it would be unwise now to erect a State hospital at that place, in view of the distribution of

population and the demand for increased hospital accommodations in the southeastern part of the State.

*On Page 69, Under the Head of Department of Public Works.*

“For rebuilding the state dam across the Black river at Carthage, the sum of fifteen thousand dollars (\$15,000), or so much thereof as may be necessary, but no part of the above appropriation shall be available except for plans, specifications and advertising until a contract for the completion of the work herein authorized shall have been duly made by the superintendent of public works with a responsible bidder and the performance thereof duly secured by a sufficient bond approved by the comptroller, which contract shall guarantee to the state that no further demand or claim shall be made against the state for the completion of the same in excess of the sum hereby appropriated, and upon the further condition that the plans shall not permit the raising of the water above the present flow line.”

This dam should be rebuilt under a suitable agreement by which those who will largely benefit from its construction will bear a proper share of the expense. The above item hints at this course in its suggestion of a contract which will guarantee the State that no demand shall be made for the completion of the work in excess of the sum thereby appropriated. But the matter is not put in such form as to give proper assurance to the State. If such a guarantee is to be relied upon, and others are to bear an agreed portion of the expense for the construction of the dam, more definite provision should be made.

*On Page 69, Under the Head of Department of Public Works.*

“For improving defective drainage conditions on the lake level of the Chemung canal between the village of Watkins and Montour Falls and on Catherine creek and its tributaries at Montour Falls, twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, but in event of a change in the channel of Catherine creek or its tributaries, such

changes shall not be made until the property owners affected thereby shall release the State from any and all damage which may result therefrom."

In view of the uncertainty as to the nature and extent of the work required to provide adequate and permanent relief, I agree with the recommendation made by the Superintendent of Public Works that before the work is undertaken a proper preliminary study be made and suitable plans of improvement formulated. The Superintendent of Public Works in his report to me upon this matter says: "My own judgment is that this proposed appropriation would not be sufficient to accomplish permanent good though it might temporarily benefit a few individual landowners.

"When this and other proposed appropriations were pending I stated to the Legislature that in my judgment the best course for the State to pursue was to provide a small appropriation to be devoted to a study of conditions and the making of plans which would result in permanent relief to the territory affected and thus secure immunity for the State from future complaints and damage.

"I am still of the opinion that this is the only sensible course to pursue, and I am further of the opinion that even such a study might result in indicating that the economical course for the State to pursue would be to appropriate such of the land as the State could be justly held to be responsible for damaging."

*On Page 23, Under the Head of Department of Agriculture.*

"For five thousand sets of the Apples of New York, constituting a part of the report of the commissioner of agriculture for the year nineteen hundred four, of which ten sets shall be delivered to each member of assembly and twenty sets to each senator, and the balance to the commissioner of agriculture, ten thousand dollars (\$10,000), or so much thereof as may be necessary, payable from any appropriation available for legislative printing."

*On Page 35, Under the Head of Department of Excise.*

"For rebates on surrender of liquor tax certificates, under the provisions of the liquor tax law, forty thousand dollars (\$40,000)."

*On Page 67, Under the Head of Department of Public Works.*

"For cleaning out the state ditch or creek, running from the Aikens' lands through the village of South Butler, in the town of Butler, in the county of Wayne, and emptying into Crusoe lake, in such county, two thousand five hundred dollars (\$2,500), or so much thereof as may be necessary."

*On Page 68, Under the Head of Department of Public Works.*

"For cleaning, draining and changing the channel of Catherine creek, in Chemung county, New York, between the village of Millport and the village of Horseheads, in said county, five thousand dollars (\$5,000), or so much thereof as may be necessary, said work to be progressed by the superintendent of public works at as early a date as conditions make favorable."

"For the erection of bridge over the Racquette river upon the St. Regis Indian Reservation, twenty thousand dollars (\$20,000), or so much thereof as may be necessary."

"For improving that portion of the highway in the town of Edinburg, county of Saratoga, known as 'Glass Mountain Road,' which passes for several miles through lands owned wholly or in part by the State of New York, one thousand dollars (\$1,000), or so much thereof as may be necessary."

*On Page 70, Under the Head of Department of Public Works.*

"For constructing a breakwater at Cranberry lake, in the county of Saint Lawrence, five thousand dollars (\$5,000), or so much thereof as may be necessary."

*On Page 71, Under the Head of Department of Public Works.*

"For removing stumps and dead timber and improving and rendering safe the navigation of Big Tupper lake and Rac-

quette pond and the channel between, ten thousand dollars (\$10,000), or so much thereof as may be necessary."

The foregoing items are objected to as unnecessary, or as applying to cases not involving any obligation on the part of the State.

(Signed) CHARLES E. HUGHES.

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### **Making an Appropriation for the New York State Hospital for the Care of Crippled and Deformed Children**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Memorandum filed with Assembly Bill No. 1252 (Senate reprint No. 1164), entitled "An act making an appropriation for the New York State Hospital for the Care of Crippled and Deformed Children."

NOT APPROVED.

This bill appropriates \$100,000 for the construction of a building, with appurtenances, as an addition to the New York State Hospital for the Care of Crippled and Deformed Children at West Haverstraw.

This is a most important charity and deserving of the utmost encouragement. But some of the best friends of this work have grave doubts as to the wisdom of adding to the investment at the present location. And it is not advisable that the appropriation provided for by this bill should be made until the matter has had further consideration.

(Signed) CHARLES E. HUGHES.

## Creating a Salary Classification Commission

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Memorandum filed with Assembly Bill No. 2025 (Senate reprint No. 1379), entitled "An act to amend the state finance law, creating the salary classification commission and making an appropriation therefor."

NOT APPROVED.

I recommended in my annual message that, in order to obtain desirable uniformity and to provide a method by which any necessary changes might be effected with due regard to the entire service of the State, provision should be made for the classification and fixing of salaries in the prisons, in the charitable institutions, and in the hospitals for the insane, by a board of control, in which the respective classes of institutions should have suitable representation.

The bill in question provides for a salary classification commission. But it does not give the commission power to fix salaries. On the contrary, the bill provides that the commission shall recommend to the Governor such changes in salaries as may seem proper and that he shall transmit their report to the Legislature with his recommendations. This would devolve upon the Legislature the burden of fixing by statute the entire salary list in the various State institutions. This is clearly objectionable. The Legislature, of course, must make the necessary appropriations to pay salaries, and any board having control of the matter under proper statutes would be compelled to fix salaries so as to bring them within the gross amounts allowed. But it is much better to commit the fixing of the salary schedule in detail, and the making of the necessary adjustments to secure reasonable harmony, to a board of officers fairly representative and intimately acquainted with the needs of the institutions than to make it necessary for the salary schedules to be acted on directly by the Legislature.

The course outlined by this bill I believe to be a serious mistake in policy, and I, therefore, disapprove it.

(Signed) CHARLES E. HUGHES.

**Authorizing an Appropriation for the Aurelia Osborn  
Fox Memorial Hospital Society of Oneonta**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 1783, entitled "An act to amend chapter one hundred and three of the laws of nineteen hundred and five, entitled 'An act authorizing the town board of the town of Oneonta to appropriate certain moneys to the Aurelia Osborn Fox Memorial Hospital Society of Oneonta,' generally."

NOT APPROVED.

This bill could not be signed because of its reference to the city of Oneonta, whose charter had not yet gone into effect. Regarding the bill as a city bill, it would be necessary to transmit it to the city for approval, and this was impossible as there was no city.

(Signed)

CHARLES E. HUGHES.

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**Amending the Agricultural Law in Relation to the  
Diseases of Domestic Animals**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2077, entitled "An act to amend the agricultural law, in relation to the diseases of domestic animals."

NOT APPROVED.

The administrative provisions of this bill are not approved. After consideration I am satisfied that it would be better to continue under the present law than to make the changes which the bill proposes. The matter is a most important one and requires further consideration.



So far as the increase of the amount to be paid for cattle is concerned the provisions of the bill have not been supplemented by adequate appropriations.

(Signed) CHARLES E. HUGHES.

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### **Providing a Three Platoon System of Police Service**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 20, 1908.

Memorandum filed with Assembly Bill No. 542, entitled "An act to promote the health and efficiency of policemen in cities of the first and second class."

NOT APPROVED.

This bill provides for what is known as the three platoon system of police service. It applies to cities of the first and second class. But so far as Buffalo, Rochester, and Syracuse are concerned, it does not effect any substantial change in method, as I am informed that a three platoon system is now in operation in each of these cities.

As to the other cities, the local administrations in New York, Albany, Troy, and Yonkers oppose the bill.

I shall not undertake to deal with the merits of the three platoon system. For that is not the question. If it is a desirable method there is nothing which prevents any one of the cities affected by this bill from adopting it. They have ample authority for this purpose under the present law.

The feature of this bill which requires consideration, and the only reason for its passage is, that by mandatory act of the Legislature it would compel these cities to adopt a particular method of dividing the police force and of arranging tours of duty without regard to the wishes of the citizens or the judgment of the local officers who are responsible to the citizens for the efficiency and proper conduct of their departments.

This is unjustifiable. Unless we are to give up local government, or remove police administration entirely from local control, the matters dealt with by this bill should be left to the regulation of the local authorities.

(Signed) CHARLES E. HUGHES.

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**Designating the Twelfth Day of October as a Public Holiday to Be Known as "Columbus Day"**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 21, 1908.

Memorandum filed with Assembly Bill No. 161, entitled "An act designating the twelfth day of October of each year as a public holiday to be known as Columbus Day."

NOT APPROVED.

This bill professes to create a new public holiday. But in fact it will only create confusion and business embarrassment. While the bill says that the 12th day of October shall be classed as a legal holiday, it goes on to provide that the act shall not be construed "to affect financial institutions" (whatever that may mean) or "the taking or execution of agreements or instruments in writing, or interfere with judicial proceedings." In short it is not made a real holiday, and what exactly it may be is not clearly defined. The vague proviso unsettles the status of the day and would give rise to business uncertainties for which there should be no room in a commercial community. If it was intended to add Columbus Day to the number of public holidays, the general law relating to holidays should have been amended accordingly.

(Signed) CHARLES E. HUGHES.

**Providing for the Free Transportation or at Reduced Rates of Letter Carriers, Policemen, and Firemen on Railroads**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 21, 1908.

Memorandum filed with Assembly Bill No. 500, entitled "An act to amend the public service commissions law relative to the carriage of letter carriers, policemen, and firemen."

NOT APPROVED.

This bill amends the section of the law as to free passes so as to provide that letter carriers, policemen, and firemen may have transportation free or at reduced rates, "while in uniform." It is not limited to cases where they are on duty. In those cases the Federal, State, and municipal governments may arrange for such transportation under the existing law.

(Signed) CHARLES E. HUGHES.

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**Providing for the Admission of Foreign Mutual Fire Insurance Companies to do Business in the State**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Memorandum filed with Assembly Bill No. 2165, entitled "An act to amend the insurance law to permit mutual fire insurance companies or associations of other states to do business within this state; to regulate the business done by them; to tax the same; and to prohibit the insuring of property located in this state in unauthorized companies."

NOT APPROVED.

This bill provides for the admission of foreign mutual fire insurance companies to do business in this State upon com-

plying with certain conditions, including the payment of a tax of 1 per cent. upon gross premiums for the benefit of associations of firemen.

It has long been the policy of the State to secure to volunteer firemen the proceeds of a tax on fire insurance premiums in recognition of the important public services which the firemen render. It appears that (owing to the extent to which so-called factory mutual fire insurance companies organized in other states write insurance upon property within this State without being admitted to do business here) the amount received from this tax has considerably been diminished. And the purpose of this bill is to facilitate the admission of such companies to do business within the State and thus to secure the avails of a tax upon the premiums.

But there are fatal objections to this bill. While the intent was to admit to this State certain companies of excellent standing, the bill is so drawn as to allow all mutual fire insurance concerns to do business here, under a certificate of the Superintendent of Insurance, but without proper safeguards.

Thus it is made mandatory upon the Superintendent of Insurance to permit a foreign mutual fire insurance company to transact business within this State without other safeguard as to its resources than an affidavit that it maintains a reserve fund equal to 50 per cent. of its unearned premiums. This is obviously insufficient. Other companies doing business here are charged, in estimating their liabilities, with a sum equal to the total unearned premiums on the policies in force. And stock companies from other states, in common with our own, are required to have a capital of not less than \$200,000. It is impossible to avoid the conclusion that this statute would throw our State open to companies without proper financial responsibility, to the great injury of our citizens. The bill provides that after one year the Superintendent of Insurance shall renew the authority if he is satisfied that the company may be trusted. But he has no discretion as to the first year, if the required papers are filed and the fee of \$50 is paid, and his action during subsequent years would not probably be governed by regard to the conditions which the Legislature itself had imposed for original admission.

Assuming that it is advisable to admit mutual companies from other states, we must not be so solicitous to secure the advantages of having the safe companies come in that we shall open the door to all sorts of irresponsible concerns and invite them to prey upon the public.

The bill further provides that no corporation organized or doing business within this State, and no partnership, shall "suffer or permit its property to be insured" in any foreign mutual fire insurance company which has not been admitted to do business within this State, unless it shows (in a prescribed manner) that it has been unable to obtain its insurance from mutual companies lawfully doing business here. In other words, the members of a New York firm are made guilty of a misdemeanor if they make a contract in Massachusetts with a Massachusetts corporation for the insurance of their property in this State, unless they comply with the prescribed conditions. This is plainly unconstitutional. It has nothing to do with the restrictions which the Legislature has a right to impose to prevent foreign companies, their agents, or brokers, from doing an unauthorized business in this State. That is a different matter. The bill undertakes to deal directly with concerns insuring their property and entitled to make contracts for that purpose in other states with companies there lawfully doing business. The provision was doubtless regarded as essential to the purpose of the bill, because the object is two-fold, to wit, to have the foreign mutual companies come into the State, and to prevent New York concerns from insuring in them if they do not.

However desirable it may be to secure adequate support for our firemen's organizations, that result manifestly cannot be attained by a measure of this sort, which in the scope of its restrictions plainly transcends constitutional limits.

(Signed) CHARLES E. HUGHES.

**Amending the Insurance Law in Relation to Provisions  
in Contracts or Policies of Insurance for the Ap-  
pointment of an Umpire**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 1752, entitled "An act to amend the insurance law in relation to provisions in contracts or policies of insurance for the appointment of an umpire."

NOT APPROVED.

The section the bill adds to the law is improperly numbered. It purports to relate to all contracts without regard to whether they are made within or without the State. Apparently it makes no distinction between contracts heretofore made and those which may be hereafter made. In its present form it will give rise to misunderstandings and unnecessary litigation. Moreover, we have a standard form of fire policy, and if it is desired to amend this the amendment should be made in an appropriate manner. The policy should contain the entire contract between the parties.

(Signed) CHARLES E. HUGHES.

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**Authorizing Insurance Companies to Increase Their Out-  
lays for Procuring New Business**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2054, entitled "An act to amend section ninety-seven of chapter six hundred and ninety of the laws of eighteen hundred and ninety-two, entitled 'An act in relation to insurance corporations, constituting chapter thirty-eight of the general laws,

as added by chapter three hundred and twenty-six of the laws of nineteen hundred and six, in relation to limitations of expenses."

#### NOT APPROVED.

The principal purpose of this bill is to authorize insurance companies to increase their outlays for procuring new business. It is proposed that the amount available under the law for this purpose shall not be charged with the amounts expended for medical examinations and for inspection of proposed risks. This cannot be justified, as it would permit unwarrantable outlays and facilitate a return to the injurious conditions of past years.

The inadvisability of this change without some compensating restriction is recognized in the bill itself. For it proposes to limit first-year commissions to 50 per cent. of the premium. This restriction, however, is illusory and not real. For the bill does not prevent the expenditure in other ways of the moneys which it makes available. It is not simply the rate of commissions in which the policyholders are interested, but the amount which is actually paid out under any form of compensation in the effort to obtain new business. The bill must, therefore, be regarded as authorizing, in addition to what is now allowed by law, the expenditure of an amount equal to the medical fees. And this I believe to be unwise.

The present law prohibits bonuses, prizes, and additional compensation "based upon the volume of any new or renewed business or the aggregate of policies written or paid for." It is proposed to amend this by inserting an exception so that the clause will prohibit such bonuses and all increased compensation "based upon the volume of any new business or the aggregate of policies written or paid for, except increased or additional commissions or compensation on renewed business within the limitations set forth" in the section. The abuses which had arisen through the promise of bonuses and rewards of various sorts for obtaining a given amount of business made it advisable to impose the present restrictions. No sufficient reason appears for a change in this policy and in any event

the amendment could not be approved in the ambiguous form now proposed.

Nothing was more clearly revealed in the legislative investigation of insurance conditions than the losses which had been inflicted upon the policyholders by wastefulness and extravagance in the rivalry to secure new business. Imposing totals of the amount of business written and of premium income were paraded before the public as evidence of successful management regardless of the fact that while reasonable accessions are desirable, the pressure for new business at exorbitant cost is a positive injury to the policyholders and makes serious inroads upon the gains and accumulations to which they are entitled. The true standards by which insurance management must be tested were obscured. Those who desired to conduct business upon an economical basis and with proper regard to the interests of the policyholders were driven by the stress of competition to outlays which they did not approve. It was apparent that while an increased public interest might enforce economies for a time, there would be almost inevitably a recurrence of these conditions if the business were not placed under suitable restrictions.

Consequently restrictions were imposed with regard to the new business which might be written and the amount which could be expended in obtaining it. These limitations are in the interest of the companies themselves, and of the large number of our people who depend upon prudent and conservative management for the protection of their homes. They should not be changed hastily or without adequate opportunity, with a proper range of experience for determining wherein any change may be advisable without paving the way for a repetition of abuses. The present bill cannot be regarded as a mere corrective amendment for the purpose of improving the law in a manner consistent with its purpose. It must be tested by what it will permit, and not by what would actually be done under it by conservative managers. The bill itself gives an illustration of its possible effect by the concluding amendment excepting from the provisions of the section companies organized on the assessment plan which are



now doing business as level-premium companies with full reserve. This amendment, I understand, was introduced to save at least one company from the crippling effect of the competition to which it would be subject if the larger companies were afforded the opportunity of increasing their outlays as proposed.

Much has been said with regard to the reduced amount of business written by the New York companies during the past year in which the present restrictions were operative. It is unnecessary to attempt a statement of all the causes which produced this result. It is desirable, of course, that new business to a normal extent, based upon normal cost, should be obtained. There is no sufficient reason to doubt that it will be. But there are other matters which also must be taken into consideration. It is useful to note the gains which have resulted from economies and reduced pressure. Without attempting within the limits of this memorandum a complete comparative statement, a few significant facts may be mentioned.

In the case of the New York Life Insurance Company the gains from loadings in 1906 amounted to \$5,770,805. In 1907 they amounted to \$7,394,545. In the case of the Mutual Life Insurance Company the gains from loadings in 1906 amounted to \$2,927,767. In 1907 they were \$4,175,711. In the case of the Equitable Life Assurance Society the gains from loadings in 1906 amounted to \$3,179,910. In 1907 they were \$3,222,279. The comparison would be still more striking if it were made with the years preceding 1906.

The gains from economical management have already been reflected in largely increased amounts set apart for payment in dividends, and the policyholders will reap large benefits from the reduction of expenses. Proper conservatism will vindicate itself, and the New York companies, as their improved condition becomes known, will not suffer but rather gain from comparison with those which operate more extravagantly.

While I am desirous that insurance agents should receive reasonable compensation and such rewards as regard for the

interest of the policyholders will justify, and that our New York companies shall have the recognition and enjoy the confidence which they deserve, I cannot approve the bill before me, as I believe that its provisions are ill-advised, and that its enactment would impair the safeguards which should protect this important business.

(Signed) CHARLES E. HUGHES.

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### **Amending the Tax Law in Relation to the Franchise Tax on Corporations**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 1276, entitled "An act to amend the tax law, in relation to the franchise tax on corporations."

NOT APPROVED.

While it would be advisable to clarify the existing law, there are questions which would be raised under this bill that might cause serious embarrassment.

(Signed) CHARLES E. HUGHES.

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### **Amending the Tax Law in Relation to the Assessment and Taxation of Special Franchises**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2055 (Senate reprint No. 1299), entitled "An act to amend the tax law, in relation to the assessment and taxation of special franchises, reports to be made to the state board of tax commissioners,

the review of such assessments and permitting local tax districts affected to intervene and be made parties defendant in proceedings to review the same."

NOT APPROVED.

The general purpose of this bill is commendable, as it provides for notice to the municipalities in interest of the issuance of writs of certiorari to review assessments of special franchises, and provides for intervention of the municipality as a matter of right.

But there is another provision in the bill which makes it necessary to disapprove it. It provides that all reports made to the State Board of Tax Commissioners shall be subject to the inspection of the corporation counsel or other local representative of any municipality or other tax district in interest, "but shall not be open to the inspection of any other person not connected with such board nor be used except for the purposes of the Tax Law and proceedings thereunder."

These reports are State records, verified on behalf of the corporations, and their use for any proper public purpose should not be restricted. This provision would preclude the Public Service Commissions from availing themselves of these reports in the course of their duties. Many other instances might be given of cases in which public officers other than those mentioned in the bill should have access to these reports for public purposes. I, therefore, disapprove the bill.

(Signed) CHARLES E. HUGHES.

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### Relative to Franchises of Railroads in New York

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 1298, entitled "An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled 'An act to provide for rapid transit railways in cities of over one million inhabitants,' relative to franchises and rates of fare."

NOT APPROVED.

Without passing upon the other questions presented, this bill cannot be approved for the reason that it embodies provisions relating to franchises for construction of rapid transit railways which were contained in Assembly Bill No. 2232, and the latter bill has been disapproved.

(Signed) CHARLES E. HUGHES.

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### **Amending the Law Providing for Rapid Transit Railways in New York**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2232, entitled "An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled 'An act to provide for rapid transit railways in cities of over one million inhabitants,' generally."

NOT APPROVED.

The salient feature of this bill is the provision for the sale of the privilege or franchise to construct, maintain, and operate rapid transit railways in the city of New York with the reservation to the city of the right to purchase and take the privilege or franchise and the plant and property of the grantee at the expiration of a fixed period, which is not to exceed fifty years. These railways, except in the case of certain extensions of existing lines, cannot now be constructed, save by the use of public moneys. The purpose of the bill is to authorize construction also by private capital and thus to provide additional transportation facilities which are greatly needed.

It has been urged that such legislation is improper by reason of the referendum of 1894 approving construction at municipal expense. On the other hand it is said that this

referendum is not technically binding and should not be considered as morally binding with regard to the greater city, as it was taken before the consolidation with Brooklyn, Queens, and Richmond; and that the inhabitants of the original city are not entitled to complain if the people through their representatives provide for legislation adapted to the needs of the greater city as a whole.

Without passing upon these points, I am convinced, after careful consideration of the matter, that the plan proposed by this bill is illusory and injurious. It is said that the bill merely gives an alternative to the authorities for construction by private capital and does not interfere with the right to secure municipally constructed lines. But I believe it to be practically certain that if this bill were to become a law there would be no construction of consequence at public expense until every available means to secure construction by private capital had been exhausted. Unless private capital could be induced to undertake construction, nothing would be gained by the bill. The demand that the provisions of the bill should be resorted to, and for consequent relief to the city, would most probably interrupt the execution of plans which are feasible even under present conditions; and if the efforts to secure construction by private capital proved futile we should have suffered serious delays in securing a proper settlement of this great problem.

I do not think it likely that private capital could be induced to construct upon the proposed terms. But it may be regarded as certain that if private capital could be induced to construct under the provisions of this bill, it would demand the most favorable terms. We should not cherish any illusions as to the prospects of competition in obtaining privileges of this sort. Experience affords us no sufficient ground for such expectation. It is idle to suppose that if the law permitted the grant of a privilege for fifty years, private capital would bid for the privilege on a basis of twenty-five years or any period less than fifty years. And no reliance should be placed upon the expectation that the authorities would refuse to sell the privilege for a full term. It may be supposed that

they would favor a period of say twenty-five years. But it would be most unlikely that if they could obtain no bidders on this basis they would be able to refuse to offer a longer term. The same arguments which are now pressed to secure the enactment of the law would then be urged with double force to secure the granting of all that the law permitted in order to obtain the desired results. The fact that the law had been passed with those provisions in it would clinch the argument.

This bill, therefore, in its main feature means that to have additional rapid transit in New York we should give fifty-year grants. I do not believe in that policy. The city should not lose its control over its highways for rapid transit purposes for such a period. Any one who reflects upon what the city was fifty years ago and upon what it is likely to become in the course of the next fifty years must realize this.

It is most important that we should have a development of transit facilities in New York city. There is nothing in which I am more interested. But even on the improper terms proposed I do not believe that this bill assures it, or gives reasonable promise of it. On the contrary I believe that it will postpone rapid transit development.

We need, in the first place, a better understanding of the financial condition of the city. And the exact margin which the city has within its debt limit should be ascertained as promptly as possible and in a manner which will put the present controversies at rest. We should know precisely where the city stands and make our plans for the future in the light of this knowledge. In connection with this, it is to be noted that the Legislature has passed a concurrent resolution for an amendment of the Constitution providing that indebtedness incurred for rapid transit improvements should not under specified conditions be considered in estimating the debt limit. If this is again passed by the next Legislature it can be adopted in November, 1909. And it must not be forgotten that with rapid transit lines, as with bridges and other improvements facilitating communication, the benefits to the city are not to be regarded as measured simply by the direct monetary returns which it may receive. The great indirect benefits

in the building up of outlying territories and in the increase of the value of the property within the city must be taken into account in planning for comprehensive transit development under proper conditions, and the advantage to the city of lines, which from the standpoint of individual investment in their construction might seem unprofitable, must be recognized.

But to whatever extent it may be deemed advisable or necessary that there should be construction by private capital, it is clear that franchises must not be inconsiderately granted, and that the law must not permit terms which we do not wish to see yielded. I believe that with due consideration this matter will be settled in the near future. But proper control over the highways and public improvements of the city must be reserved and we must not allow temporary exigencies to force grants contrary to sound judgment and wise policy.

The present bill, with what amounts as I read it to a practical provision for fifty-year franchises, is thoroughly objectionable. There are some other features of the bill which have been criticised, but I do not think it necessary to discuss them, as I cannot in any event approve it.

(Signed) CHARLES E. HUGHES.

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### **Amending the Stock Corporation Law in Relation to Merger of Corporations**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 1156, entitled "An act to amend the stock corporation law, in relation to merger of corporations."

NOT APPROVED.

This bill provides for an amendment to the Stock Corporation Law and relates to the conditions under which certain railroad corporations may be merged or consolidated.

The bill is evidently intended to fit a special case, although it is not frankly special, and justifiable as such, but is an amendment to the general law with conditions which prevent it from being generally applicable.

Thus the amendment applies only to corporations (1) whose routes are mainly on private right of way; (2) when such routes are each less than 100 miles in length; (3) where the building of the roads has not been commenced or they are only in part constructed, and (4) when each corporation has a terminus within a city of more than 1,000,000 inhabitants.

It would be difficult to suggest any ground of public policy which requires that an amendment to the general law should be hedged about in this manner, and the bill is an illustration of a vicious practice which has been altogether too prevalent.

There are other objections to the bill. It provides in effect that a merger or consolidation shall not take place unless all the stockholders agree to it either tacitly or expressly, or are deemed to agree to it by reason of their failure to deliver their stock after an appraisal of its value. The bill, however, is defective in the working out of the scheme. It provides for the deposit of the appraised value of the stock with the treasurer of the corporation, and that if the stockholder does not deliver his stock to the treasurer within a prescribed time he shall be deemed to consent to the merger. But it gives no authority to the treasurer to pay, and makes no provision for the payment of the appraised value to the stockholder. Further, it requires the stockholder to deliver his stock to the treasurer personally within ten days and no provision is made for cases in which the delivery cannot be made because the treasurer is absent or inaccessible.

However desirable it may be that the rights of minority stockholders should be protected, this bill cannot be approved.

(Signed) CHARLES E. HUGHES.



**Amending the Railroad Law in Relation to the Number  
of the Crew Required to Operate Light Engines**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 1800, entitled  
"An act to amend the railroad law, in relation to the number  
of the crew required for operating light engines."

NOT APPROVED.

This bill provides as to the number which shall constitute  
a crew for operating light engines. This matter falls within  
the jurisdiction of the Public Service Commissions, and  
wherever any abuse exists in the manning of trains or en-  
gines it may be brought to their attention.

(Signed) CHARLES E. HUGHES.

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**Providing for a Five Cent Fare on Railroads, Other Than  
a Steam or Trunk Line, Within Any City or Village  
Unless the Public Service Commission Gives its Con-  
sent to an Additional Fare**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 1603, entitled  
"An act to amend the railroad law in relation to the rate of  
fare."

NOT APPROVED.

This bill provides in effect that no railroad company (other  
than a steam or trunk line railroad) shall charge more than  
five cents for any continuous ride on the lines operated or  
controlled by it within any city or village unless the Public

Service Commission shall give its consent to an additional fare.

It is plainly intended to affect charges over existing lines. It establishes a maximum rate of five cents without regard to the length of the route or the reasonableness of such a fare. In other words, it is an arbitrary maximum imposed by legislative fiat. But it is clear that if the rate is not a reasonable one and if the requirement would operate as a confiscation of the company's property, the Legislature cannot impose it. The attempt to enforce such a rate under such circumstances would be abortive, as a successful appeal could be made to the courts. It is idle to suppose that the companies can be compelled to reduce their fares to five cents merely because the Legislature says so.

Whether a five-cent fare is a fair one depends upon facts and not upon sentiment, desire, or prejudice. Whether the result be agreeable or disagreeable, it inevitably will be reached only after the facts have been ascertained and considered. Justice requires this and under the Constitution the requirement will be enforced.

The proper way to deal with these matters is to provide for investigation in which the whole subject can be considered, specious claims sifted out, and a result just both to the corporations and to the public arrived at.

It may be said that the provision of this bill with regard to the Public Service Commission has this effect. But this is not the case. The bill provides for a flat rate of five cents unless the Commission consents to a higher fare. It does not provide that the Commission shall ascertain or fix a just and reasonable rate or that an increase shall be allowed because it is just and reasonable. Evidently the bill was drawn not to give the Commission power to fix a just and reasonable rate, but to fix a rate by statute with a provision for appeal from the Legislature to the Commission and without any proper indication of the conditions under which the appeal is to be heard.

This can only result in confusion, affording as it would opportunity for protracted litigation over the validity of such

a statute and postponing the proper settlement of the real question involved.

It is highly important that we should have transportation in our cities at the lowest fair rates. It is desirable that in New York city there should be low rates from the congested quarters to the breathing spots in the outlying districts and by the sea. The sure way, and the only way, to make real progress in this direction is through the ascertainment of the essential facts and the making of reasonable rates in accordance with the facts. This bill is wrong in principle and is not adapted to secure the desired result. I cannot approve it.

(Signed) CHARLES E. HUGHES.

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### **Extending the Time for the Completion of the New York Canadian Pacific Railway**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 970, entitled "An act to extend the time for completion of the New York Canadian Pacific Railway; and to extend the corporate existence of said company; and permitting the use of electric as well as steam power."

NOT APPROVED.

It appears that the New York Canadian Pacific Railway was organized under the corporate title of New York & Albany Railroad Company in 1866. Various statutes have been passed from time to time extending the time to construct its railroad. But it has not been constructed. Two years ago in connection with an application for an extension, the Board of Railroad Commissioners strongly advised against it. The company has had forty years to build its road; and due regard for the policy of the State as defined by the general law requires that this bill be disapproved.

(Signed) CHARLES E. HUGHES.

**Extending the Time for the Albany & Schoharie Valley  
Railroad Company to Commence and Complete the  
Construction of Its Railroad**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 101, entitled "An act to amend chapter six hundred and fifty-three of the laws of nineteen hundred and six, entitled 'An act to extend the time of the Albany and Schoharie Valley Railroad Company to commence and complete the construction of its railroad,' in relation to the time of such extension."

NOT APPROVED.

The Albany & Schoharie Valley Railroad Company was organized in the year 1895. It did not expend on construction 10 per cent. of its capital during the first five years of its existence as required by law. It has obtained extensions from time to time. When the last one was granted in 1906, the Board of Railroad Commissioners in approving it recommended that no further extension should be given. And no sufficient ground now appears for a further extension. While the Legislature has power to extend the life of the corporation, it should not be exercised except in rare instances where it is clearly in the public interest. As the Public Service Commission of the second district says, "Bills of this character simply nullify a useful general law of the State which should be enforced."

(Signed) CHARLES E. HUGHES.

**Amending the Domestic Commerce Law in Relation to  
Trade-marks**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 1755, entitled "An act to amend the domestic commerce law, in relation to trade-marks."

NOT APPROVED.

This bill in its present form places an unnecessary and unintended restriction upon the use of second-hand bottles, and thus would injuriously affect certain trades. The desired protection against fraud and abuse of trade-marks, labels, etc., can be gained by a statute whose scope is more carefully defined.

(Signed) CHARLES E. HUGHES.

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**Prohibiting the Printing, More Than Once, Except for a  
Judicial Office, of the Name of Any Person Nominated  
for an Office**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 1031, entitled "An act to amend the election law, relative to nomination for public office."

NOT APPROVED.

This bill provides that the name of a person nominated for any office except a judicial office shall not be printed upon the official general ballot for any election more than once under the title of such office.

This measure is wholly indefensible. Undoubtedly one of the criticisms of the present form of ballot is that candidate's names frequently appear in several columns, but the remedy is to change the form of ballot and to abolish the party column. In other words, we should have a simplified ballot in which the names of the candidates for the respective offices should appear but once, grouped under the names of the offices.

But as long as we retain the present form of ballot with its party columns, it would be a grave injustice to prohibit a candidate's name from appearing in more than one column.

(Signed) CHARLES E. HUGHES.

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**Amending the Liquor Tax Law in Relation to Applications for Liquor Tax Certificates for Certain Premises Within 200 Feet of a Church or Schoolhouse**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2164, entitled "An act to amend the liquor tax law, in relation to applications for liquor tax certificates for certain premises within two hundred feet of a church or schoolhouse."

NOT APPROVED.

This bill is defective. By a law passed at the last session, subdivision 8, section 17 of the Liquor Tax Law was amended with regard to the effect of cancellation of licenses by the insertion of a clause reading as follows: "or had suffered or permitted any gambling in the place designated by the liquor tax certificate as that in which the traffic in liquors was to be carried on, or in any yard, booth, garden or any other place appertaining thereto or connected therewith."

In the present bill, which amends the same section, the language of this clause is changed so as to read, "or had

suffered or permitted any gambling in the place designated by the liquor tax certificate as that in which the traffic in liquor was to be carried on, or in any yard, booth, garden or any other place thereby connected therewith."

The amendment in this form makes an important provision meaningless and cannot be approved.

Under the present law the traffic in liquors to be drunk upon the premises is forbidden in places within 200 feet of a church or schoolhouse. The policy of the law as to places established before its enactment in 1896 is to provide a free area so as to protect the immediate proximity of churches and schoolhouses from such trafficking.

It is proposed by this bill to remove the existing prohibition where the trafficking in liquors has antedated the location of the church or schoolhouse within the specified distance. This is especially urged as a measure affording needed protection to reputable hotels and apartment-houses having restaurants. But this amendment is not limited to such cases. And there is no attempt by any appropriate description to confine its operation to those places which would be covered by such an argument.

It is a broad amendment applicable without exception to all saloons and places where liquor is drunk upon the premises. Unless the policy of the law is to be entirely abandoned, such an amendment cannot be approved. The saloon cannot be permitted to take precedence over the American schoolhouse.

(Signed) CHARLES E. HUGHES.

**Amending the Greater New York Charter Relative to the Powers of the Commissioners of the Sinking Fund to Cancel Taxes**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 224 (Assembly reprint No. 1391), entitled "An act to amend the Greater New York charter relative to the powers of the commissioners of the sinking fund of the city of New York, in their discretion, to cancel and annul taxes, assessments, Croton water rents, et cetera, in certain cases."

NOT APPROVED.

This bill provides that the commissioners of the sinking fund of New York city, upon the certificate of the comptroller, may cancel taxes, assessments, water rates, and sales which have become a lien against the real estate owned by any charitable, religious, library, or education corporation. It is most desirable that there should be a general law under which this action can be taken by the local authorities, and the repeated applications which have been made to the Legislature for special acts in favor of particular claimants should be rendered unnecessary. I have been strongly in favor of this course and I regret that I cannot sign this bill. It is not properly limited and under its terms taxes and assessments could be canceled, although they had become charges against the real estate before it was acquired by the religious, charitable, or other corporation in question, and hence the subject of consideration in determining the purchase price. The bill simply provides that the cancellation may be granted provided the corporation, at the time of filing its application, is entitled to the exemption of such real estate from local taxation. The provision should have been so framed as to provide for proper cancellation of liens for taxes and assessments charged against the property after the acquisition by the corporations described.

(Signed) CHARLES E. HUGHES.



### **Exempting Employees of the New York Board of Elections from the Civil Service Law as to Competitive Examinations**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2196, entitled "An act to amend the election law, generally."

NOT APPROVED.

This bill, among other things, provides that "all employees of the board of elections of the city of New York are hereby declared to be election officers." The object is to exempt all employees of the board of elections from the application of the Civil Service Law as to competitive examinations. There would seem to be no sufficient reason for an exemption of this scope.

(Signed) CHARLES E. HUGHES.

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### **Concerning a Harbor at Syracuse**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2284, entitled "An act to amend chapter one hundred and forty-seven of the laws of nineteen hundred and three, entitled 'An act making provision for issuing bonds to the amount of not to exceed one hundred and one million dollars for the improvement of the Erie canal, the Oswego canal and the Champlain canal, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and three,' relative to the harbor at Syracuse."

NOT APPROVED.

The purpose of this bill is to provide larger harbor facilities at Syracuse in connection with the barge canal. The bill, however, cannot be signed. For as passed it affects the route of the canal by making it to run "to the mouth of the Clyde river" instead of "to *near* the mouth of the Clyde river" as under the present law. This was evidently through an inadvertent dropping of a word, as the amendment was not indicated in the printed bill. I am advised by the Superintendent of Public Works that this omission is material and that the word "near" had been purposely used in the present law in order to give the engineer the desired latitude in selecting the point of departure from the Seneca river.

(Signed) CHARLES E. HUGHES.

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### **Making the Office of County Clerk of Sullivan County a Salaried Office**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2266, entitled "An act to amend chapter four hundred and forty of the laws of eighteen hundred and ninety-seven, entitled 'An act to make the office of county clerk of Sullivan county a salaried office, and to regulate the management of said office,' generally."

NOT APPROVED.

Where the office of county clerk is a salaried office, it seems to me desirable that all fees, including fees for searches, should be turned over to the county. The matter of fixing and changing the compensation of the county clerk should be committed to the board of supervisors.

(Signed) CHARLES E. HUGHES.

**Authorizing the Election of a Receiver of Taxes and Assessments for Saratoga Springs**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 2226, entitled "An act to amend chapter three hundred and twenty-three of the laws of eighteen hundred and seventy-two, entitled 'An act authorizing the election of a receiver of taxes and assessments for the town and village of Saratoga Springs,' generally."

NOT APPROVED.

A bill substantially the same as this was vetoed during the session.

(Signed) CHARLES E. HUGHES.

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**Amending the Village Law in Relation to the General Powers of the Board of Trustees**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Senate Bill No. 1370, entitled "An act to amend the village law, in relation to the general powers of the board of trustees, and the borrowing of money for certain purposes."

NOT APPROVED.

This bill conflicts with Assembly Bill No. 1761, which has been approved.

(Signed) CHARLES E. HUGHES.

**Permitting the Eastern New York Holiness Association  
to Sell Its Real Property for Camp Sites**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 1575, entitled "An act to permit the Eastern New York Holiness Association, to sell, lease, and convey its real property for camp sites."

NOT APPROVED.

This corporation was organized under the Membership Corporations Law. The bill proposes to give it a special privilege. If it be advisable that corporations of this character should have this power conferred upon them, it should be by amendment of the general law.

(Signed) CHARLES E. HUGHES.

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**Abolishing a Railway Crossing at Brown Street in the  
City of Rochester**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 873, entitled "An act to abolish the grade crossing of the New York Central and Hudson River Railroad and the Buffalo, Rochester and Pittsburgh Railroad at Brown street in the city of Rochester."

NOT APPROVED.

This bill has not been approved for the reason that it is a special city bill and was not returned within the time specified in the Constitution.

(Signed) CHARLES E. HUGHES.

**Confirming Certain Grants or Patents of Land Under the  
Navigable Waters of the State**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 251, entitled  
"An act to confirm certain grants or patents of land under  
the navigable waters of the state."

NOT APPROVED.

This bill in its present form is too broad. It might unjustly  
affect cases which are not intended to come within its purview.

(Signed) CHARLES E. HUGHES.

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**Conferring Jurisdiction upon the Court of Claims to  
Determine Special Cases or Providing for the Relief  
of Particular Individuals**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with bills specified below.

NOT APPROVED.

The following bills conferring jurisdiction upon the Court  
of Claims to determine special cases or providing for the re-  
lief of particular individuals are disapproved. If the gen-  
eral law is not adequate it should be amended, provided that  
considerations of general policy admit of such amendment.

Assembly Bill No. 1348 (Senate reprint No. 1245), en-  
titled "An act to confer jurisdiction upon the court of claims  
to hear, audit and determine the alleged claim of Zina Cool-  
tein against the state of New York, for damages alleged to  
have been sustained by her from bullets fired by the militia-men  
of the state of New York while said militia-men were engaged

in infantry practice at the state rifle range at Creedmoor, on or about the seventeenth day of May, nineteen hundred and seven, and to render judgment therefor."

Assembly Bill No. 1156 (Senate reprint No. 1239), entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of Rosalia Inda, as executor of the last will and testament of Peter Inda, deceased, against the state of New York, for damages for the death of said Peter Inda, and the claims and each thereof of Alonzo E. Burks, Clara G. Burks and Veronica Olszewski, for damages by reason of physical injuries alleged to have been sustained by them and each of them respectively on the sixth day of July, nineteen hundred and seven, at and upon the inclined railway, so-called, located on the New York state reservation at Niagara Falls, Niagara county, New York, and the claim of Alonzo E. Burks for loss of his wife's services and moneys expended in her care and treatment, and to render judgment therefor."

Senate Bill No. 879, entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of Frances Truszkowska against the state of New York for damages alleged to have been sustained by her on the state reservation at Niagara on or about the fifth day of July, nineteen hundred and three, and to render judgment therefor."

Assembly Bill No. 1352 (Senate reprint No. 1241), entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of the Albany Towing Company against the state of New York, for damages alleged to have been sustained by said company by a collision of tug boats at Troy locks, in Hudson river, and to render judgment therefor."

Assembly Bill No. 2297, entitled "An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claim of Oliver A. Quayle against the state for damages alleged to have been sustained by him and to render judgment therefor."

Assembly Bill No. 1351 (Senate reprint No. 1244), entitled "An act to confer jurisdiction upon the court of claims

to hear, audit and determine the alleged claim of John Dyer, junior, against the state of New York, for damages alleged to have been sustained by him on a contract for the erection of a house for the warden of the Eastern New York Reformatory, and to render judgment therefor."

Assembly Bill No. 1908, entitled "An act for the relief of certain legatees and devisees under the last will and testament of Laureda J. Potter, deceased."

Assembly Bill No. 1093, entitled "An act for the relief of certain employees of the sheriff of Kings county."

Assembly Bill No. 2265, entitled "An act authorizing the board of estimate and apportionment of the city of New York to hear and determine the application of William Ebling for a refund of certain moneys paid upon an assessment for street improvement, in the borough of Bronx."

Senate Bill No. 782 (Assembly reprint No. 2292), entitled "An act to provide for the payment of an increased pension to James F. Smith, a retired doorman of the police department of the city of New York."

Assembly Bill No. 1124, entitled "An act to authorize the comptroller of the state to hear and determine the application of Everett R. Walker for the cancellation of tax sales made in the years eighteen hundred and eighty-one and eighteen hundred and eighty-five of lot fifty-three, Mayfield patent, in Fulton county."

Assembly Bill No. 1209 (Senate reprint No. 1348), entitled "An act conferring jurisdiction on the comptroller to hear and determine an application to set aside certain tax sales."

Senate Bill No. 188, entitled "An act to release to Emil Riese, all the right, title and interest of the people of the state of New York in and to certain real estate in the borough of Brooklyn, city of New York, county of Kings and state of New York."

Assembly Bill No. 1673, entitled "An act to release to Jenny Leydet all the right, title and interest of the people of the state of New York, in and to certain real estate situate in the borough of Brooklyn, county of Kings and state of New York."

Senate Bill No. 1151, entitled "An act to release to Elizabeth Ditchett, Emily I. Wright, Kate C. Clark and Mary L. Watson all the right, title and interest of the people of the state of New York in and to certain real estate situate in the borough of the Bronx, city, county and state of New York."

Assembly Bill No. 905, entitled "An act to release to John Pollyino, all that right, title and interest of the people of the state of New York, in and to certain real estate situate in the town of Olive, county of Ulster, state of New York, acquired by escheat or otherwise, upon the death of Mink Delamater, Andrew Delamater and Gertrude Delamater."

(Signed) CHARLES E. HUGHES.

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### **Making Changes in Salaries**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with bills specified below.

NOT APPROVED.

The following bills are not approved for the reason that they make changes in salaries which should be fixed under appropriate provisions by the local authorities. Changes in the maximum salaries allowed amount in practice to salary increases and leave it necessary to have further legislation in case further increases are desired. The local authorities should have full control of the matter.

Assembly Bill No. 1058, entitled "An act to amend chapter six hundred and four of the laws of nineteen hundred and six, entitled 'An act fixing the compensation of the superintendent of the poor of the county of Erie, and of his subordinates.'"

Assembly Bill No. 528, entitled "An act to amend chapter twenty-six of the laws of nineteen hundred and three, entitled 'An act to make the office of sheriff of Essex county a salaried office, in part, and to regulate the management thereof,' in relation to the salary of jailor and turnkey."



Assembly Bill No. 2202, entitled "An act to amend chapter one hundred and sixty of the laws of nineteen hundred, entitled 'An act to incorporate the city of Cortland,' relative to salary of the chief of police and the number and salaries of patrolmen."

Assembly Bill No. 1797, entitled "An act to amend chapter two hundred and eighteen of the laws of eighteen hundred and eighty-four, entitled 'An act to regulate the commitment and discharge of certain prisoners, tramps and vagrants in Albany county, and to prescribe the effect thereof, to provide for the support of the prisoners in the jail in the city of Albany and to fix the duties and compensation of the sheriff of said county and of certain employees in the jail in said county,' in relation to certain disbursements and the amounts allowed as salaries for certain employees of the sheriff."

Senate Bill No. 1101, entitled "An act to amend chapter seventy-nine of the laws of eighteen hundred and eighty-three, entitled 'An act to regulate the transaction of public business in the county of Albany,' in relation to the transaction of such business, and the compensation of clerks of the board of supervisors."

Assembly Bill No. 1940 (Senate reprint No. 1334), entitled "An act to amend the code of civil procedure, in relation to the compensation of deputy sheriffs and constables attending courts in the counties of Monroe, Saratoga and Delaware."

(Signed) CHARLES E. HUGHES.

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### Special City Bills Not Accepted by the Cities in Question

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with bills specified below.

#### NOT APPROVED.

The following bills have not been approved for the reason that they are special city bills and were not accepted by the cities in question in accordance with the Constitution. These bills are as follows:

Senate Bill No. 1321, entitled "An act to authorize the city of New Rochelle to borrow money by the issue of bonds for the purpose of meeting temporary deficiencies."

Senate Bill No. 1078, entitled "An act to amend section five of title four of chapter two hundred and three of the laws of nineteen hundred and seven, entitled 'An act to revise and amend the charter of the city of Newburgh, being chapter five hundred and forty-one of the laws of eighteen hundred and sixty-five, and the several acts amendatory thereof and supplemental thereto.'"

Assembly Bill No. 2120, entitled "An act conferring discretionary power and authority upon the common council and mayor of the city of Buffalo to audit, adjust and allow certain claims for damages to property located in the city of Buffalo, caused by grade crossing improvements in said city, and to authorize the issue of bonds of said city with which to pay the same."

Assembly Bill No. 2258, entitled "An act to amend chapter five hundred and eighty-six of the laws of nineteen hundred and six, entitled 'An act to provide for a park commission in and for the city of Syracuse.'"

Assembly Bill No. 2190, entitled "An act to amend section one of chapter three hundred and thirty-five of the laws of nineteen hundred and seven, entitled 'An act in relation to certain grade crossings in the city of Utica,' in relation to the effect of a decision thereunder."

Assembly Bill No. 2123, entitled "An act to amend the election law, in regard to the number of electors to be contained in an election district in the city of New York."

Assembly Bill No. 1283, entitled "An act to amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' in relation to compensation of coroners' jurors and providing for the payment thereof."

Assembly Bill No. 2029, entitled "An act to amend the Greater New York charter, in relation to the salaries and employment of members of the uniformed force of the department of street cleaning of the city of New York."

Assembly Bill No. 227, entitled "An act to amend the Greater New York charter, in relation to territory for the accommodation and use of canal boats and barges."

Senate Bill No. 482, entitled "An act to amend the Greater New York charter, in relation to retiring members of the fire department."

Assembly Bill No. 1900, entitled "An act to amend the Greater New York charter, in relation to the use of buildings for moving picture exhibitions."

Senate Bill No. 327 (Assembly reprint No. 2287), entitled "An act to amend the Greater New York charter, in relation to the fire department."

Assembly Bill No. 848, entitled "An act to amend the Greater New York charter, relative to salaries of members of the fire department."

Assembly Bill No. 2233, entitled "An act to amend the Greater New York charter, relative to vacations of employees."

Senate Bill No. 1265, entitled "An act in relation to South Oxford street, in the borough of Brooklyn, in the city of New York."

Senate Bill No. 805, entitled "An act to amend chapter five hundred and eighty of the laws of nineteen hundred and two, entitled 'An act in relation to the municipal court of the city of New York, its officers and marshals,' in relation to fees of stenographers for transcripts of minutes and requiring stenographers to furnish bonds."

Assembly Bill No. 1370 (Senate reprint No. 1326), entitled "An act relative to leases upon sales for taxes in certain villages of the county of Queens."

Assembly Bill No. 2098, entitled "An act to amend the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, relative to the doormen of police."

(Signed) CHARLES E. HUGHES.

**Duplicate Bills or in Conflict with Existing Law**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with bills specified below.

## NOT APPROVED.

The following bills are disapproved for the reason that they are either duplicates of bills which have been approved or in some of their provisions conflict with laws which have been passed at this session:

These bills are as follows:

Assembly Bill No. 713, entitled "An act to amend the Greater New York charter, in relation to the relief fund of the fire department."

Senate Bill No. 959, entitled "An act to amend the insurance law, relative to the insurance of automobiles."

Assembly Bill No. 2142, entitled "An act to amend chapter one hundred and twenty of the laws of eighteen hundred and eighty-six, entitled 'An act to revise the charter of the city of Lockport,' relative to authorizing the common council to raise money for certain purposes."

Assembly Bill No. 2086, entitled "An act to amend the primary election law, in relation to excepting first class cities and certain third class cities from special enrollment."

Senate Bill No. 859, entitled "An act to reappropriate certain unexpended balances of former appropriations."

Senate Bill No. 1173, entitled "An act to amend the state finance law, relating to loan commissioners."

Senate Bill No. 1172, entitled "An act to amend chapter seven hundred and five of the laws of nineteen hundred and five, entitled 'An act to provide for annual reports by and the examination of accounts of counties, cities of the second and third classes and villages having a population of three thousand or more, the tabulation of comparative statistics as to the cost of maintaining the various branches of government

in such municipalities and making an appropriation therefor,' as amended by chapter two hundred and fifteen of the laws of nineteen hundred and seven, relative to the reporting and examination of municipal accounts."

Senate Bill No. 1077, entitled "An act relative to the water works bonds and other bonds of the city of Troy."

Assembly Bill No. 928, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon.'"

Senate Bill No. 72, entitled "An act to amend the membership corporations law, in relation to Young Men's Christian Associations."

Assembly Bill No. 691, entitled "An act to amend chapter five hundred and eighty of the laws of nineteen hundred and two, entitled 'An act in relation to the municipal court of the city of New York, its officers and marshals,' relative to trial jurors in the county of Richmond."

Assembly Bill No. 2115, entitled "An act to amend the county law, relative to business hours in the offices of the clerk of the county and of courts of record and register of deeds in the county of Westchester."

Assembly Bill No. 530, entitled "An act to amend the county law, relative to the compensation of supervisors in Essex county."

Senate Bill No. 1134, entitled "An act to regulate the taking of deposits by certain persons, firms and corporations."

(Signed) CHARLES E. HUGHES.

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### **Defectively Drafted, Special Laws, Unnecessary, or Generally Objectionable Bills by Reason of Proposed Changes — The Omnibus Veto**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

The following bills are not approved because of being defectively drafted, special laws where relief can be had under

existing laws, unnecessary, or generally objectionable by reason of proposed changes:

Senate Bill No. 1010, entitled "An act to amend section one of chapter six hundred and eighty-eight of the laws of nineteen hundred, entitled 'An act fixing the terms of the town officers in the county of Westchester, ratifying the act of board of supervisors fixing the time of the biennial town meetings and providing for the appointment of inspectors of election in such county,' relative to the time the several supervisors therein shall hereafter take office."

Senate Bill No. 49, entitled "An act in relation to the German Odd Fellows Home Association of the State of New York."

Senate Bill No. 594, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon,' relating to tax leases."

Senate Bill No. 1062, entitled "An act to amend the primary election law in relation to the duties of boards of primary election inspectors."

Senate Bill No. 1305, entitled "An act to amend the agricultural law, in relation to the sale and shipment of calves and veal."

Assembly Bill No. 2063 (Senate reprint No. 1360), entitled "An act to amend chapter three hundred and forty-eight of the laws of eighteen hundred and eighty-five, entitled 'An act to authorize the appointment of stenographers for grand juries, and to fix the compensation of such stenographers,' relative to the appointments of special stenographers."

Assembly Bill No. 2112 (Senate reprint No. 1372), entitled "An act to amend chapter twenty-nine of the laws of nineteen hundred and eight, entitled 'An act to incorporate the city of Glens Falls,' in relation to the compensation of assessors."

Assembly Bill No. 2028, entitled "An act to amend chapter four hundred and forty of the laws of eighteen hundred and ninety-six, entitled 'An act to facilitate the identification

of criminals,' in relation to creating certain exemptions to the requirements of said act, applicable to the city of New York."

Assembly Bill No. 2000, entitled "An act to amend the general municipal law, relative to temporary loans."

Assembly Bill No. 2006, entitled "An act to amend the public health law, in relation to vital statistics."

Assembly Bill No. 1087, entitled "An act regulating the distribution of money received from taxes on the business of foreign fire insurance corporations collected and received by the treasurer of the city of Little Falls."

Assembly Bill No. 733, entitled "An act to amend chapter seven hundred and one of the laws of eighteen hundred and ninety-three, entitled 'An act to regulate gifts for charitable purposes,' relative to the time when the supreme court shall have control over such gifts."

Assembly Bill No. 277, entitled "An act to amend the tax law, in relation to the exempt real estate of pensioners, their wives and widows."

Assembly Bill No. 1325 (Senate reprint No. 1336), entitled "An act to amend the code of civil procedure, in relation to notice of sale of personal property."

Assembly Bill No. 1913, entitled "An act to amend the insanity law, relative to the support and maintenance of patients in state hospitals."

Assembly Bill No. 433 (Senate reprint No. 801), entitled "An act to amend section twenty-seven hundred and eighteen of the code of civil procedure, relative to the publication of notices to present claims against decedents."

Assembly Bill No. 1850, entitled "An act to amend chapter five hundred and eighty of the laws of nineteen hundred and two, entitled 'An act in relation to the municipal court of the city of New York, its officers and marshals,' in relation to foreclosure of lien on chattels."

Assembly Bill No. 1653, entitled "An act to amend the county law, in relation to the designation of newspapers to publish session laws and concurrent resolutions."

Assembly Bill No. 417, entitled "An act to amend chapter four hundred and sixteen of the laws of nineteen hundred,

entitled 'An act to establish a state hospital in some suitable location in the Adirondacks for the treatment of incipient pulmonary tuberculosis, and making an appropriation therefor,' in relation to the qualifications of the superintendent of said hospital."

Senate Bill No. 684, entitled "An act to amend chapter seven hundred and fifty-four of the laws of nineteen hundred and four, entitled 'An act to simplify the settlement of accounts of receivers, on dissolution of a monied corporation.'"

Assembly Bill No. 1541, entitled "An act to authorize and provide for the reimbursement, by the town of Hyde Park, in Dutchess county, of moneys to property owners in such town, paid by them for the improvement of a certain highway therein."

Assembly Bill No. 2011 (Senate reprint No. 1337), entitled "An act to amend the consolidated school law, in relation to tenure of office of teachers in cities of the third class and villages employing superintendents of schools, and in relation to the safety and health of pupils."

Assembly Bill No. 2060, entitled "An act to confirm and continue the reorganization of the village of Waddington in Saint Lawrence county under general laws; to supplement the loss or failure to file a record thereof; and to validate certain acts of the taxpayers, electors and officers of such village."

Assembly Bill No. 1691, entitled "An act to amend chapter two hundred and forty-three of the laws of eighteen hundred and fifty-nine, entitled 'An act to amend the charter and several acts relating to the village of Waterford and to incorporate the same into one act,' as amended by chapter one hundred and forty-one of the laws of eighteen hundred and eighty-eight and chapter one hundred and nine of the laws of eighteen hundred and ninety-nine, relating to the division of said village into wards and prescribing the qualifications of the officers for said village."

Assembly Bill No. 839, entitled "An act to amend chapter six hundred and seventeen of the laws of nineteen hun-



dred and four, entitled 'An act to establish a police pension fund for the city of Troy, New York,' in relation to amount of pension."

Assembly Bill No. 1972, entitled "An act to amend chapter twenty-six of the laws of eighteen hundred and eighty-five, entitled 'An act to revise, amend and consolidate the several acts in relation to the city of Syracuse, and to revise and amend the charter of said city.'"

Assembly Bill No. 1726, entitled "An act to provide for the assessment of certain real property for a portion of the cost of paving South State street from Colvin street to Brighton avenue in the city of Syracuse."

Senate Bill No. 1091, entitled "An act to amend subdivision two of section one hundred and forty-seven of the code of criminal procedure in reference to the designation of persons who are magistrates, by including therein the justices of the city court of the city of New York."

Assembly Bill No. 1374, entitled "An act to authorize the county treasurer to pay to the board of supervisors of Suffolk county the funds in his hands received from the late board of sidepath commissioners of said county."

Assembly Bill No. 2289, entitled "An act to amend the code of civil procedure, in relation to taking proof of will."

Assembly Bill No. 2221, entitled "An act authorizing the town board of the town of Newcomb, Essex county, to designate an elector of such town to act as policeman therein under the direction of the town board, and to fix his compensation therefor."

Assembly Bill No. 1834, entitled "An act to amend the village law, relative to the form of the village assessment roll."

Assembly Bill No. 506, entitled "An act to repeal sections seven and eight of title two of chapter six hundred and seventy of the laws of eighteen hundred and ninety-two, entitled 'An act to amend chapter five hundred and ninety-eight of the laws of eighteen hundred and seventy, entitled "An act to amend an act to incorporate the city of Troy, passed April twelfth, eighteen hundred and sixteen, and the several acts amendatory thereof, and also to amend other acts relat-

ing to the city of Troy," and the acts amendatory of said chapter five hundred and ninety-eight, and to consolidate into one act several of the acts amending the charter of and other acts relating to the city of Troy and its departments, and to the inferior local courts therein.' "

Assembly Bill No. 1553, entitled "An act to empower the supreme court of the state of New York to fix and determine the amount of compensation to be paid by the city of New York to the commissioners of estimate and appraisal appointed by that court to estimate and appraise the loss, damage of and compensation to be paid to the owners and others by reason of the taking of lands and premises in the borough of Manhattan in said city of New York under and pursuant to chapter seven hundred and twelve of the laws of nineteen hundred and one, entitled 'An act to relieve the congestion and facilitate the traffic on the New York and Brooklyn bridge and to improve and extend the footpaths, roadways, railway tracks and other facilities for the use of pedestrians, vehicles and railway passengers at the westerly or Manhattan terminal of said bridge.' "

Assembly Bill No. 1865, entitled "An act to amend chapter five hundred and eighty of the laws of nineteen hundred and two, entitled 'An act in relation to the municipal court of the city of New York, its officers and marshals,' relative to the issuance of subpoenas and the attendance of witnesses."

Assembly Bill No. 976, entitled "An act to amend the Indian law, in relation to the jurisdiction of the peace-makers' court of the Tonawanda reservation."

Assembly Bill No. 1663, entitled "An act to amend the Indian law, in relation to the devolution of property of persons of the Tonawanda nation of Seneca Indians, by will and by descent and distribution."

Senate Bill No. 781, entitled "An act to amend sections two hundred and eighty-eight and seven hundred and twenty-eight of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and amended by chapter one hundred and sixty of the laws of nineteen hundred and seven, relative to promotions in the police and fire departments."

Senate Bill No. 780, entitled "An act to amend sections two hundred and ninety-nine and seven hundred and forty of the Greater New York charter, as re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and amended by chapters one hundred and sixty and five hundred and forty-seven of the laws of nineteen hundred and seven, relative to promotions in the police and fire departments."

Senate Bill No. 576, entitled "An act to amend sections two hundred and forty-nine and nine hundred and nine of the Greater New York charter, in relation to the determination of the tax rate by the board of aldermen and the extension of taxes."

Senate Bill No. 218, entitled "An act to amend chapter one hundred and eighty-two of the laws of eighteen hundred and ninety-two, entitled 'An act to incorporate the city of Mount Vernon,' relative to the publication of notices of tax sales and notices of redemption from tax sales."

Senate Bill No. 927, entitled "An act to amend the insurance law, in relation to limiting the powers of a corporation, association or society, subject to said law, in respect to its surplus reserve funds or accumulations."

Senate Bill No. 1287, entitled "An act to amend the insurance law, in relation to insuring the lives of persons between seventeen and twenty-one years of age on co-operative or assessment plan."

Senate Bill No. 1133, entitled "An act to amend article six of the insurance law, in relation to certificates of authority to be issued by the superintendent of insurance."

Senate Bill No. 1250, entitled "An act to amend chapter one hundred and two of the laws of nineteen hundred and four, entitled 'An act to incorporate the Silver Bay Association for Christian Conferences and Training,' relating to the number necessary to constitute a quorum and the holding of property."

Assembly Bill No. 1254, entitled "An act in relation to perpetual care of private cemetery lots and defining and declaring charitable uses in relation thereto."

Assembly Bill No. 1934, entitled "An act authorizing the trustees of the village of Peekskill to levy by tax money for the support, maintenance and care of patients in the Peekskill hospital or for improvement of hospital building, an institution conducted by the Helping Hand Association, a domestic corporation."

Assembly Bill No. 1861 (Senate reprint No. 1366), entitled "An act to amend chapter four hundred and fifty-seven of the laws of nineteen hundred and seven, entitled 'An act in relation to gas and electricity in the city of Syracuse.'"

Assembly Bill No. 1827, entitled "An act to amend the tax law, in relation to reducing the rate of assessment on land devoted to the growing of wood, timber and other forest products, with the view of encouraging the growth of such products."

Assembly Bill No. 1885 (Senate reprint No. 1264), entitled "An act to amend the elections law, in relation to board of elections in the city of New York."

Senate Bill No. 1083, entitled "An act to amend the code of civil procedure in relation to the court of claims."

Senate Bill No. 1093, entitled "An act to amend the code of civil procedure, in relation to the jurisdiction of the court of claims."

Assembly Bill No. 2026, entitled "An act to amend the public health law, in relation to the sale, adulteration and misbranding of drugs."

Senate Bill No. 268, entitled "An act to amend section twelve hundred and forty-two of the code of civil procedure, relating to the sale of real property."

Assembly Bill No. 1858, entitled "An act to amend chapter four hundred and forty-one of the laws of eighteen hundred and ninety-nine, entitled 'An act to create a commissioner of jurors in the several counties of this state,' in relation to the commissioner of jurors in the county of Herkimer, and to abolish the office of such commissioner in said county and terminate the powers, duties and term of the present incumbent."

(Signed)

CHARLES E. HUGHES.

IV  
**MEMORANDA ON LEGISLATIVE BILLS  
APPROVED**



#### IV

### MEMORANDA ON LEGISLATIVE BILLS APPROVED

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#### **Amending an Act in Relation to the First Methodist Episcopal Church of New York**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 4, 1908.

Memorandum filed with Senate Bill No. 862, entitled "An act to amend chapter two hundred and eighteen of the laws of eighteen hundred and sixty-six, entitled 'An act in relation to "The First Methodist Episcopal Church in the City of New York" and to incorporate the same.'"

APPROVED.

The corporation affected by this bill was chartered by a special act, and I sign the bill because its objects cannot be accomplished under the general law.

(Signed) CHARLES E. HUGHES.

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#### **Changing the Name of the Holy Angels' Infirmary**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, April 4, 1908.

Memorandum filed with Senate Bill No. 663, entitled "An act to change the name of the Holy Angels' Infirmary, Academy and Industrial School for Benevolent, Charitable and Scientific Purposes to D'Youville College and Academy of the Holy Angels, and permitting said corporation to maintain a college department for the education of women in literature, science, philosophy, religion and the liberal arts, and to confer degrees and grant diplomas."

APPROVED.

The corporation known as "The Holy Angels' Infirmary, Academy and Industrial School for Benevolent, Charitable and Scientific Purposes" was organized in 1864 under the general law of 1848. Its objects were described to be "to visit the poor, dispense medicine to them from their infirmary, to instruct youth in learning and to form an industrial school for poor girls and to teach and educate children." By special act (Laws of 1869, chapter 50) any defects in its certificate were cured and it was confirmed in the possession of its powers for all the purposes described in its certificate of incorporation. By this bill it is permitted to establish a collegiate department for the education of women, to confer degrees and to change its name accordingly. The bill places these privileges under restrictions so as to insure equipment and provision for maintenance which must be approved by the Regents of the University of the State, and provides that the courses leading to the recognized degrees shall, with specified exceptions, also be approved by the Regents. It is thus placed in the exercise of its additional powers under the supervision of the Regents in conformity with the policy of the State and the only question is as to the necessity or propriety of special legislation in the matter.

The present organization, however, of the institution is anomalous. The general law under which it was formed has been repealed, and the objects of this bill cannot be effected by reincorporation under present general laws without a loss of certain powers which it now enjoys. It is conceded by all that the extension of privileges under the restrictions provided by this bill is desirable, and there is no good reason for refusing the special law through which alone this extension can be had.

In view of the anomalous situation of this institution this bill cannot be regarded as a precedent for departures from the policy of the University Law.

(Signed) CHARLES E. HUGHES.



**Providing for the Registration of Land Titles by the  
Torrens System**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 20, 1908.

Memorandum filed with Assembly Bill No. 1672, entitled  
"An act in relation to registering titles to real property and  
facilitating and expediting its transfer."

**APPROVED.**

The purpose of this bill is to establish a system for the registration of land titles and in this way to avoid, wherever resort to the system may be practicable, repeated examinations of title and an unnecessary multiplication of records.

A commission was appointed last year to examine the matter, and after the most careful consideration of the whole subject, including the experience of other states and of foreign countries, the majority of the commission recommended this legislation. Objections were presented in a careful minority report. After this thorough examination, and with the opposing views clearly presented, the Legislature has adopted the recommendations of the commission.

I believe that this measure represents an important movement in the direction of facilitating land transfers, and that it should become a law. The merits of the objections can best be tested, and indeed can satisfactorily be tested only, by experience. If we are ever to escape the complications, delays, and expense incident to present methods, a beginning must be made, and the painstaking and intelligent efforts which have culminated in the passage of this bill should not be frustrated.

(Signed)

CHARLES E. HUGHES.

**Providing for the Semi-Monthly Payment of Employees  
of Steam Surface Railways**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 20, 1908.

Memorandum filed with Assembly Bill No. 196, entitled "An act to amend the labor law relative to the time when wages are to be paid."

APPROVED.

By the Labor Law it is provided that corporations and joint-stock associations shall pay their employees weekly. Steam surface railroads, however, were excepted from this provision and permitted to pay monthly. This bill mitigates this discrimination by providing for a semi-monthly payment.

It is urged that this change will cause the steam railroads some inconvenience and expense. But doubtless the present law occasions inconvenience and expense to other corporations who are not benefited by any exception. It is better that the present bill should become a law and suitable administrative arrangements be made to comply with it, than that the existing discrimination which cannot be justified with due regard to the policy of the provision of the Labor Law should be maintained.

(Signed) CHARLES E. HUGHES.

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**Providing for the Regulation of the Practice of  
Optometry**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 21, 1908.

Memorandum filed with Senate Bill No. 1033, entitled "An act to amend the public health law by defining optometry and regulating the practice thereof."

APPROVED.

This bill provides for the regulation of the practice of optometry as therein defined. The Legislature last year passed a measure for the same purpose which was disapproved upon the ground that it failed to provide for adequate supervision by the Board of Regents in accordance with the policy of the State. The defects then pointed out have been remedied in the present bill. Objections have been urged to giving legal recognition to the practice in question, but the fact remains that the practice exists and will continue, and unquestionably it forms a proper subject for regulation.

I, therefore, approve the bill.

(Signed) CHARLES E. HUGHES.

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### **Authorizing the Purchase of Rapid Transit Railways in New York**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Memorandum filed with Senate Bill No. 973, entitled "An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled 'An act to provide rapid transit railways in cities of over one million inhabitants,' in regard to the purchase by such cities and the equipment, maintenance and operation of railways for rapid transit purposes."

APPROVED.

This bill authorizes the Public Service Commission of the first district, with the approval of the board of estimate and apportionment of New York city, to purchase upon agreed terms and acquire by conveyance to the city lines of railway already constructed or in process of construction which might be built as rapid transit railways.

This is a power which the authorities should possess. Whether or not it should be exercised in a particular case

will of course depend upon the nature of the rights and property to be acquired, the terms that can be made, and the advantages of the purchase considered in relation to rapid transit plans and the moneys available therefor.

The bill in my judgment should have contained a provision for condemnation. And such authority should later be added.

(Signed) CHARLES E. HUGHES.

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### **Authorizing the Establishment of a State Reservation to be Called "Fire Island State Park"**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 22, 1908.

Memorandum filed with Assembly Bill No. 1072, entitled "An act to authorize the location, establishment, maintenance and use of certain lands in the towns of Islip and Babylon, county of Suffolk, for a state reservation to be called Fire Island state park."

APPROVED.

The property was acquired for quarantine purposes in a time of great emergency. The present law provides that if the Commissioners of the Land Office are satisfied that it is not necessary or suitable for such purpose, that it may be sold at public auction or private sale. In my judgment, having due regard to the future, the property should not be sold, but should be retained by the State and proper provision should be made for its care. This is accomplished by the present bill.

It has been objected that the bill does not provide that it may be used for quarantine purposes should it become necessary in a great emergency, but the land will be under the control of the State and whatever authority may be needed for this purpose can be supplied.

(Signed) CHARLES E. HUGHES.

**Authorizing the Conveyance of the Title of Land in  
Nassau County to Elbert Valentine**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, May 23, 1908.

Memorandum filed with Assembly Bill No. 908, entitled "An act to authorize the supervisor of the town of Hempstead, in the county of Nassau, to execute and deliver a deed to Elbert Valentine, thereby conveying the title of said town in certain lands therein, to cure a defect in a former conveyance."

APPROVED.

This bill authorizes the execution of a deed on behalf of the town of Hempstead to confirm title to premises which have been occupied by the grantee and his successor in interest for upwards of fifty years. It is shown that there was a mistake in the original conveyance, and it can be corrected in no other way.

(Signed)

CHARLES E. HUGHES.



**V**

**EMERGENCY MESSAGES**





## V

### EMERGENCY MESSAGES

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Messages certifying to the necessity of the immediate passage of specified Senate and Assembly bills, in compliance with section 15 of article III of the Constitution, were sent to the Legislature of 1908 from time to time by Governor Hughes. The measures to which the messages applied were as follows:

March 12. Assembly Bill Introductory No. 1177, entitled "An act to amend chapter six hundred and seventy-eight of the laws of nineteen hundred and six, entitled 'An act providing for the acquisition of a site and for the erection of a state education building, providing for the state library, state museum, and making an appropriation therefor,' in relation to the erection of such building."

April 14. Assembly Bill Introductory No. 934, Printed No. 1970, as amended, entitled "An act to amend the banking law, relative to restrictions upon the loans and business methods of corporations subject to its provisions."

April 15. Assembly Bill Introductory No. 546, Printed No. 1196, as amended, entitled "An act to create a board of commissioners in the city of Utica to control the erection and repair of buildings in said city."

April 16. Senate Bill Introductory No. 835, Printed No. 1308, entitled "An act in relation to the militia, constituting chapter sixteen of the general laws," as amended..

April 16. Senate Bill Introductory No. 916, entitled "An act to amend the banking law, relative to publicity of certain official acts of the superintendent and details of the business of the department."

April 16. Assembly Bill No. 1649 (Senate reprint No. 1261), entitled "An act to amend the banking law, relative to the lawful money reserve of banks and individual bankers."

April 16. Assembly Bill Introductory No. 936, Printed No. 2102, as amended this day, entitled "An act to amend the banking law, relative to branch offices of banks."

April 20. Senate Bill Introductory No. 835, Printed No. 1367, entitled "An act in relation to the militia, constituting chapter sixteen of the general laws."

April 21. Senate Bill Introductory No. 718, Printed No. 1375, entitled "An act to amend generally the public service commissions law, and to add thereto a new article relating to telegraph and telephone companies."

April 21. Assembly Bill Introductory No. 458, Printed No. 850 (Senate reprint No. 844), entitled "An act making appropriations for the support of government," as amended by the substitute bill reported by the Conference Committee.

April 22. Assembly Bill Introductory No. 660, Printed No. 2100 (Senate reprint No. 1333), entitled "An act to amend chapter one hundred and five of the laws of eighteen hundred and ninety-one, entitled 'An act to revise the charter of the city of Buffalo,' in relation to the municipal court, and to repeal title twenty-two thereof relating to such court," as amended.

April 22. Senate Bill Introductory No. 914, Printed No. 1388, entitled "An act to amend the liquor tax law, in relation to duties and powers of special agents; statements to be made upon application for liquor tax certificates; bonds to be given; payment of the tax and issuing of the liquor tax certificate; places in which traffic in liquors shall not be permitted; persons who shall not traffic in liquors; revocation and cancellation of liquor tax certificates; injunction proceedings; illegal sales and selling; violations and penalties; surrender of forfeited liquor tax certificates; warrants of search and seizure of liquors; jurisdiction of courts and reports of magistrates, courts and court clerks; duties and fees of sheriffs."

April 22. Senate Bill Introductory No. 934, Printed No. 1383, entitled "An act to authorize the city of New York to enter into contracts and agreements to provide for the disposal of sewerage of villages or townships within the Croton

water shed, and to allow the city of New York to acquire such lands as may be necessary to carry into effect said system and to acquire lands for the sanitary protection of the said water supply and to raise funds to carry said agreements into effect or to improve the sanitary protection of said water supply."

April 22. Senate Bill Introductory No. 681, Printed No. 853, entitled "An act making an appropriation for highway improvement purposes," as amended.

April 22. Assembly Bill Introductory No. 1216, Printed No. 1892 (Senate reprint No. 1390), entitled "An act to amend chapter six hundred and seventy-six of the laws of eighteen hundred and ninety-eight, entitled 'An act to create a metropolitan district; provide for the appointment of a state superintendent therein, and to prescribe his powers and duties,' in relation to duties of hotel and lodging house keepers."

April 22. Assembly Bill Introductory No. 1416, Printed No. 1967 (Senate reprint No. 1384), entitled "An act making appropriations for construction, additions and improvement at the state hospitals for the insane."

April 23. Assembly Bill Introductory No. 1585, Printed No. 2303, entitled "An act to make an appropriation for the payment of the judgments of the court of claims, in claims arising on account of the canals of this state."

April 23. Assembly Bill Introductory No. 1584, Printed No. 2302, entitled "An act to make an appropriation for the payment of the judgments of the court of claims, in claims other than those on account of the canals of this state."

April 23. Assembly Bill Introductory No. 1142, Printed No. 1419 (Senate reprint No. 1380), entitled "An act making appropriations for repairs, renewals, and betterments for the several state prisons, the Matteawan State Hospital for Insane Criminals, and the Dannemora State Hospital for Insane Convicts."

April 23. Assembly Bill Introductory No. 1081, Printed No. 1528 (Senate reprint No. 1139), entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations," as amended and reported by the Conference Committee.

June 9. Assembly Bill Introductory No. 32, Printed No. 37, of the Extraordinary Session of 1908, entitled "An act to abolish the grade crossing of the New York Central and Hudson River Railroad and the Buffalo, Rochester and Pittsburg Railroad at Brown street in the city of Rochester."

June 10. Senate Bill Introductory No. 16, Printed No. 29, of the Extraordinary Session of 1908, entitled "An act to amend chapter one hundred and forty-seven of the laws of nineteen hundred and three, entitled 'An act making provision for issuing bonds to the amount of not to exceed one hundred and one million dollars for the improvement of the Erie canal, the Oswego canal and the Champlain canal, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year nineteen hundred and three,' relative to the harbor at Syracuse."

June 10. Senate Bill Introductory No. 25, Printed No. 31, of the Extraordinary Session of 1908, entitled "An act to amend section one hundred and seventy-six of chapter seven hundred and sixty of the laws of eighteen hundred and ninety-seven, as amended, entitled 'An act to revise the charter of the city of Watertown.'"

June 10. Assembly Bill Introductory No. 33, Printed No. 38, of the Extraordinary Session of 1908, entitled "An act to amend the agricultural law, in relation to the diseases of domestic animals, and making an appropriation therefor."

June 10. Assembly Bill Introductory No. 29, Printed No. 34, of the Extraordinary Session of 1908, entitled "An act to amend section three hundred and fifty-one of the penal code, relating to pool-selling, book-making, bets and wagers."

June 10. Assembly Bill Introductory No. 30, Printed No. 35, of the Extraordinary Session of 1908, entitled "An act to amend chapter five hundred and seventy of the laws of eighteen hundred and ninety-five, entitled 'An act for the incorporation of associations for the improvement of the breed of horses and to regulate the same; and to establish a state racing commission,' in relation to betting, wagering, pool-selling and book-making."

June 10. Senate Bill Introductory No. 21, Printed No. 30, of the Extraordinary Session of 1908, entitled "An act to amend the code of civil procedure, in relation to the jurisdiction of the court of claims," as amended.

June 11. Senate Bill Introductory No. 26, Printed No. 33, of the Extraordinary Session of 1908, entitled "An act to amend the agricultural law, in relation to the diseases of domestic animals, and making an appropriation therefor," as amended.

June 11. Assembly Bill, Introductory No. 35, entitled "An act making appropriations for certain expenses of government and supplying deficiencies in former appropriations."

June 11. Assembly Bill Introductory No. 36, entitled "An act making an appropriation for the expenses of the Special Session of the Legislature called by proclamation of the Governor to convene May eleventh, nineteen hundred and eight."



**VI**  
**APPOINTMENTS**





## VI

### APPOINTMENTS

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#### Executive

COMMISSIONER OF WATER POWER ON BLACK RIVER.

March 17. Wooster O. Ball of Watertown to succeed Fred W. Babcock, deceased.

NEW YORK CHARTER COMMISSION (Chapter 114, Laws of 1908).

April 21. Patrick F. McGowan, Herman A. Metz, William M. Ivins, Elgin R. L. Gould, Nathaniel A. Elsberg, J. Hampden Dougherty, Charles H. Strong, George L. Duval, James Cowden Meyers, George McAneny, Almet R. Latson, Alfred J. Boulton, William W. Niles, all of New York city. Harrison S. Moore of Flushing and George Cromwell of New Brighton. No stated term.

SPECIAL EXAMINER AND APPRAISER OF CANAL LANDS  
\*(Chapter 195, Laws of 1908).

May 1. Harvey J. Donaldson of Ballston Spa, original appointment for a term to expire April 30, 1911.

CORONER — CATTARAUGUS COUNTY.

May 28. Charles L. Randall of Franklinville as coroner of and for the county of Cattaraugus, who was elected in November, 1907, and failed to qualify.

DISTRICT ATTORNEY — ST. LAWRENCE COUNTY.

June 24. John C. Crapser of Messina as district attorney of and for the county of St. Lawrence to fill the vacancy caused by the resignation of Clarence S. Ferris.

## COUNSEL TO THE GOVERNOR.

June 25. Owen Lincoln Potter of Albany as counsel to the Governor to fill the vacancy created by the resignation of Edward Sandford. . .

## CORONER — ST. LAWRENCE COUNTY.

July 11. Henry S. Stilwell, M. D., of Ogdensburg as coroner of and for the county of St. Lawrence to fill the vacancy created by the resignation of Silas E. Brown.

## COMMISSION ON STATE FARM FOR WOMEN (Chapter 467, Laws of 1908).

June 29. Mrs. Eliza M. Guy of New York city.

June 29. Mrs. Jane L. Armstrong of Rochester.

July 3. Simon W. Rosendale of Albany. No stated term.

## MEMBERS OF THE COMMISSION TO INQUIRE INTO INFERIOR CRIMINAL COURTS IN CITIES OF THE FIRST CLASS (Chapter 211, Laws of 1908).

Nov. 10. Bronson Winthrop of New York city.

Nov. 10. John Alan Hamilton of Buffalo.

## LAKE CHAMPLAIN TER-CENTENARY COMMISSION (Chapter 149, Laws of 1908).

July 23. John H. Booth of Plattsburg.

July 23. John B. Riley of Plattsburg.

July 23. Walter C. Witherbee of Port Henry.

July 23. Louis C. Lafontaine of Champlain.

July 23. Howland Pell of New York city.

No stated term.

## APPOINTIVE MEMBER OF THE STATE PROBATION COMMISSION.

July 29. Frank E. Wade of Buffalo, for a term to expire July 1, 1912.

## TRUSTEES OF THE SUPREME COURT LIBRARY AT TROY (Chapter 79, Laws of 1908).

June 29. William J. Roche of Troy, for a term to expire December 30, 1908.

June 29. Michael A. Tierney of Troy, for a term to expire December 30, 1909.

June 29. Lewis E. Griffith of Troy, for a term to expire December 30, 1910.

Original appointments.

TRUSTEES OF THE SUPREME COURT LIBRARY AT WHITE PLAINS  
(Chapter 304, Laws of 1908).

Dec. 21. Nathan P. Bushnell of Peekskill, for a term to expire December 30, 1908.

Dec. 21. John F. Brennan of Yonkers, for a term to expire December 30, 1909.

Dec. 21. J. Addison Young of New Rochelle, for a term to expire December 30, 1910.

Dec. 21. David H. Hunt of White Plains, for a term to expire December 30, 1911.

Dec. 21. Frank V. Millard of Tarrytown, for a term to expire December 30, 1912.

Original appointments.

MEMBER OF THE COMMISSION TO ACQUIRE A SITE FOR THE  
NEW YORK STATE TRAINING SCHOOL FOR BOYS (Chapter  
268, Laws of 1908).

June 25. Newbold Morris of New York city to succeed  
Isaac Townsend, resigned. No stated term.

MEMBERS OF THE COMMISSION TO INQUIRE INTO THE CONDI-  
TION, WELFARE, AND INDUSTRIAL OPPORTUNITIES OF  
ALIENS IN THE STATE OF NEW YORK (Chapter 210,  
Laws of 1908).

July 15. Louis Marshall, New York city.

July 15. Miss Lillian Wald, New York city.

July 15. Edward B. Whitney, New York city.

July 15. William Williams, New York city.

July 15. Gino C. Speranza, New York city.

July 15. Marcus M. Marks, New York city.

July 15. Miss Frances A. Kellor, New York city.

July 15. Philip V. Danahy, Albany.

July 15. Charles W. Larmon, Salem.

Aug. 11. James Bronson Reynolds of New York city to  
fill the vacancy created by the declination of  
William Williams.

## APPOINTMENTS

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### GOVERNOR AND SENATE

#### COMMISSIONER OF AGRICULTURE.

April 15. Raymond A. Pearson of Ithaca to succeed Charles A. Wieting, resigned, for a term ending April 29, 1911. Confirmed April 16.

#### STATE ARCHITECT.

Jan. 1. Franklin B. Ware of New York city (no stated term). Confirmed January 13.

#### SUPERINTENDENT OF BANKS.

Jan. 1. Clark Williams of New York city reappointed for a term to expire May 9, 1908. Confirmed January 13.

April 14. Reappointed for a term to expire May 9, 1911. Confirmed April 14.

#### COMMISSIONERS OF THE STATE BOARD OF CHARITIES.

June 9. Richard L. Hand of Elizabethtown to succeed Ledyard P. Hale, resigned, for a term to expire March 23, 1910. Confirmed June 11.

June 9. Horace McGuire of Rochester to succeed Enoch V. Stoddard, M.D., for a term to expire March 23, 1916. Confirmed June 10.

#### FOREST, FISH, AND GAME COMMISSIONER.

April 15. James Spencer Whipple of Salamanca reappointed for a term to expire April 14, 1912. Confirmed April 15.

AGENT OF THE ONONDAGA INDIANS RESIDING ON THE ALLEGANY, CATTARAUGUS, TUSCARORA, AND TONAWANDA RESERVATIONS.

- Jan. 1. Emily P. Lincoln of Iroquois reappointed for a term to expire April 15, 1911. Confirmed January 13.

COMMISSIONER OF LABOR.

- Jan. 1. John Williams of Utica reappointed for a term to expire December 31, 1908. Confirmed January 13.

LOAN COMMISSIONERS.

- June 11. Cattaraugus county — Charles C. Mason of Conewango reappointed for a term to expire April 15, 1909. Confirmed June 11.
- June 11. George A. Stoneman of Machias reappointed for a term to expire April 15, 1909. Confirmed June 11.
- June 11. Chautauqua county — Edward Cook of Panama reappointed for a term to expire April 15, 1909. Confirmed June 11.
- June 11. Frank L. Smith of Silver Creek reappointed for a term to expire January 10, 1909. Confirmed June 11.
- Nov. 17. Marvin Horton of Arkwright to succeed Edward Cook, resigned. Recess appointment requiring confirmation.
- Jan. 13. Chenango county — Otis A. Thompson of Norwich to succeed Harvey A. Truesdell, removed from county, for a term to expire April 13, 1909. Confirmed January 15.
- June 11. Otis A. Thompson of Norwich to succeed himself, failed to qualify. Confirmed June 11.
- June 11. Erie county — Clarence A. Tyler of Alden reappointed for a term to expire May 4, 1909. Confirmed June 11.
- June 11. Thomas H. Noonan of Buffalo reappointed for a term to expire April 22, 1909. Confirmed June 11.

- June 11. Niagara county — Frank Terry of Royalton reappointed for a term to expire April 8, 1909. Confirmed June 11.
- June 11. Henry Voelker of LaSalle reappointed for a term to expire April 22, 1909. Confirmed June 11.
- June 11. Oneida county — Robert R. Pritchard of Remsen reappointed for a term to expire April 7, 1910. Confirmed June 11.
- June 11. Otsego county — Simeon R. Barnes of Oneonta reappointed for a term to expire April 9, 1909. Confirmed June 11.
- June 11. Robert O. Marshall of Cooperstown reappointed for a term to expire February 28, 1910. Confirmed June 11.
- June 11. St. Lawrence county — Andrew Tuck of Lisbon reappointed for a term to expire March 25, 1910. Confirmed June 11.
- June 11. William Bradford of Louisville reappointed for a term to expire March 25, 1910. Confirmed June 11.
- Jan. 1. Ulster county — Cornelius Dumond of Kingston reappointed for a term to expire April 13, 1909. Confirmed January 13.
- June 9. Wayne county — Clark Hopkins of Sodus Point to succeed Seth B. Dean, resigned, for a term to expire February 20, 1909. Confirmed June 10.
- Aug. 29. Clark Hopkins of Sodus Point to succeed himself, failed to qualify. Recess appointment requiring confirmation.
- Oct. 3. Clark Hopkins of Sodus Point to succeed himself, failed to qualify. Recess appointment requiring confirmation.

## STATE COMMISSIONER IN LUNACY.

- Jan. 1. Albert Warren Ferris, M. D., of New York city, as President of said Commission. (No stated term.) Confirmed January 13.

TRUSTEES OF THE STATE SCHOOL OF AGRICULTURE AT MORRISVILLE, PURSUANT TO CHAPTER 20 OF THE LAWS OF 1908.

Nov. 17. John H. Broad of Morrisville, John T. Roberts of Syracuse, Fitch Gilbert of Gilbertsville, John A. Stewart of New York city, Garret Miller of Peterboro; and

Dec. 11. Irving S. Sears of DeRuyter to succeed Garret Miller, who failed to qualify. Recess appointments requiring confirmation.

COMMISSIONERS OF THE STATE RESERVATION AT NIAGARA.

June 11. George Raines of Rochester reappointed for a term to expire May 11, 1913. Confirmed June 11.

June 11. Alexander J. Porter of Niagara Falls reappointed for a term to expire May 11, 1913. Confirmed June 11.

June 11. Eugene Cary of Niagara Falls to succeed Alvah K. Potter, resigned, for a term to expire May 11, 1913. Confirmed June 11.

June 11. Thomas P. Kingsford of Oswego reappointed for a term to expire May 11, 1913. Confirmed June 11.

June 11. Charles M. Dow of Jamestown reappointed for a term to expire May 11, 1913. Confirmed June 11.

COMMISSIONERS OF THE PALISADES INTERSTATE PARK.

April 17. William H. Porter of New York city reappointed for a term to expire February 12, 1913. Confirmed April 17.

April 17. William A. Linn of Hackensack, N. J., reappointed for a term to expire February 12, 1913. Confirmed April 17.

MEMBERS OF THE BOARD OF PAROLE.

Jan. 1. Albion V. Wadhams of Wadhams reappointed for a term to expire July 2, 1912. Confirmed January 13.

## COMMISSIONERS OF PRISONS.

- Jan. 1. Edgar A. Newell of Ogdensburg reappointed for a term to expire June 21, 1909. Confirmed January 13.
- Jan. 1. Henry Solomon of New York city reappointed for a term to expire June 21, 1910. Confirmed January 13.
- April 17. Thomas W. Hynes of Brooklyn reappointed for a term to expire June 21, 1912. Confirmed April 17.
- April 17. Sarah L. Davenport of Bath reappointed for a term to expire June 21, 1912. Confirmed April 17.

## SUPERINTENDENT OF STATE PRISONS.

- April 13. Cornelius V. Collins of Troy reappointed for a term to expire April 17, 1913. Confirmed April 13.

## PUBLIC SERVICE COMMISSIONERS — 2D DISTRICT.

- Jan. 1. Thomas Mott Osborne of Auburn reappointed for a term to expire February 1, 1911. Confirmed January 15.
- April 9. John B. Olmsted of Buffalo to succeed Charles Hallam Keep, resigned, for a term to expire February 1, 1912. Confirmed April 15.

## STATE FAIR COMMISSIONERS (Chapter 31, Laws of 1908).

- April 15. Charles A. Wieting of Cobleskill.
- April 15. Ira Sharp of Lowville.
- April 15. Abraham E. Perren of Buffalo.
- April 15. DeForest Settle of Syracuse.
- April 15. William Pitkin of Rochester.

Original appointments, for terms to expire April 17, 1911. Confirmed April 16.

## STATE TAX COMMISSIONER.

- Jan. 1. Frank E. Perley of New York city reappointed for a term to expire December 31, 1910. Confirmed January 1.



## UNIFORMITY OF LEGISLATION COMMISSION.

- Jan. 1. Francis M. Burdick of New York city reappointed. William H. Hotchkiss of Buffalo reappointed. No stated term. Confirmed January 13.

## TRUSTEE OF WASHINGTON'S HEADQUARTERS.

- Jan 1. John Deyo, M. D., of Newburgh reappointed for a term to expire April 1, 1911. Confirmed January 13.

## STATE WATER SUPPLY COMMISSIONER.

- April 16. John A. Sleicher of New York city reappointed for a term to expire June 5, 1913. Confirmed April 16.

## FIRE ISLAND STATE PARK COMMISSIONERS (Chapter 474, Laws of 1908).

- June 11. John H. Vail of Islip.  
June 11. John Clinton Robbins of Babylon.  
June 11. Samuel L. Parrish of Southampton.  
June 11. Henry W. Sackett of New York city, and  
June 11. Edward C. Blum of the borough of Brooklyn.  
Original appointments. For terms to expire May 22, 1913. Confirmed June 11.

## STATE HOSPITALS

## MANAGERS OF THE BINGHAMTON STATE HOSPITAL.

- April 16. Merritt J. Corbett of Binghamton to succeed George C. Bayless, for a term to expire December 31, 1908. Confirmed April 16.  
April 16. Harry N. Gardner of Binghamton to succeed William Mason, for a term to expire December 31, 1911. Confirmed April 16.  
April 16. Lavinia R. Davis, M. D., of Oneida to succeed Ellen T. Fish, deceased, for a term to expire December 31, 1913. Confirmed April 16.

April 16. Kate M. Ely of Binghamton reappointed for a term to expire December 31, 1914. Confirmed April 16.

MANAGER OF THE BUFFALO STATE HOSPITAL.

Jan. 15. Minnie Becker of Buffalo reappointed for a term to expire December 31, 1914. Confirmed January 15.

MANAGER OF THE CENTRAL ISLIP STATE HOSPITAL.

Jan. 15. Emma R. C. Floyd of Mastic reappointed for a term to expire December 31, 1914. Confirmed January 15.

MANAGER OF THE HUDSON RIVER STATE HOSPITAL.

April 16. William D. Granger, M. D., of Bronxville reappointed for a term to expire December 31, 1914. Confirmed April 16.

MANAGER OF THE KINGS PARK STATE HOSPITAL.

Jan. 15. Charles E. Teale of Brooklyn reappointed for a term to expire December 31, 1914. Confirmed January 15.

MANAGERS OF THE LONG ISLAND STATE HOSPITAL.

April 21. Hugo Hirsh of Brooklyn reappointed for a term to expire December 31, 1914. Confirmed April 21.

April 21. Mabel L. Hastings of Brooklyn to succeed Louisa Man Wingate, resigned, for a term to expire December 31, 1912. Confirmed April 21.

MANAGERS OF THE MANHATTAN STATE HOSPITAL.

Jan. 15. Grace Gillette Bird of New York city reappointed for a term to expire December 31, 1914. Confirmed January 15.

April 16. Gustav Scholer, M. D., of New York city to succeed Harry Lippman, resigned, for a term to expire December 31, 1913. Confirmed April 16.

## MANAGER ROCHESTER STATE HOSPITAL.

April 22. Frederick C. Malling of Rochester to succeed David M. Garson resigned, for a term to expire December 31, 1914. Confirmed April 22.

## MANAGER ST. LAWRENCE STATE HOSPITAL.

April 16. S. Mortimer Coon of Oswego reappointed for a term to expire December 31, 1914. Confirmed April 16.

## MANAGERS OF THE UTICA STATE HOSPITAL.

Jan. 1. Rev. William W. Bellinger, D. D., of Utica reappointed for a term to expire December 31, 1911. Confirmed January 13.

Jan. 13. Marietta Doolittle Coxe of Utica reappointed for a term to expire December 31, 1914. Confirmed January 13.

## MANAGER WILLARD STATE HOSPITAL.

Jan. 13. Abram S. Stothoff of Watkins reappointed for a term to expire December 31, 1914. Confirmed January 13.

## MANAGER GOWANDA STATE HOSPITAL.

April 16. Mary B. Shepard of Buffalo reappointed for a term to expire December 31, 1914. Confirmed April 16.

## MANAGER MIDDLETOWN STATE HOMEOPATHIC HOSPITAL.

April 22. William A. Lawrence of Chester to succeed Newbold Morris, resigned, for a term to expire December 31, 1914. Confirmed April 22.

## TRUSTEES OF THE STATE HOSPITAL FOR THE TREATMENT OF INCIPIENT PULMONARY TUBERCULOSIS.

April 17. Willis G. Macdonald, M. D., of Albany reappointed for a term to expire April 16, 1913. Confirmed April 17.

Sept. 26. Charles Stover, M. D., of Amsterdam and Martin Van Buren Ives of Potsdam. Recess appointments requiring confirmation.

MANAGERS OF THE NEW YORK STATE HOSPITAL FOR THE  
CARE OF CRIPPLED AND DEFORMED CHILDREN.

April 17. James Porter Fiske, M. D., of New York city to succeed Rogers H. Bacon, resigned, for a term to expire April 16, 1913. Confirmed April 21.

April 21. Urban G. Hitchcock, M. D., of New York city to succeed Rt. Rev. Henry C. Potter, resigned, for a term to expire April 16, 1909. Confirmed April 21.

Sept. 21. Auguste M. Thierry of New York city and John J. Nutt, M. D., of New York city. Recess appointments requiring confirmation pursuant to chapter 433 of the Laws of 1908.

CHARITABLE INSTITUTIONS

MANAGERS NEW YORK STATE TRAINING SCHOOL FOR GIRLS.

Jan. 1. Nathaniel H. Levi of Brooklyn reappointed for a term to expire December 31, 1909. Confirmed January 13.

Jan. 15. Marcia Chase Powell of Ghent reappointed for a term to expire December 31, 1913. Confirmed January 22.

Sept. 26. Loomis Burrell of Little Falls. Recess appointment requiring confirmation.

WESTERN HOUSE OF REFUGE FOR WOMEN.

Jan. 15. John W. LeSeur, M. D., of Batavia reappointed for a term to expire December 31, 1913. Confirmed January 22.

April 17. Caroline H. Bliss of Buffalo to succeed Helen Z. M. Rodgers, resigned, for a term to expire December 31, 1912. Confirmed April 17.

MANAGERS STATE AGRICULTURAL AND INDUSTRIAL SCHOOL.

April 22. J. Willis Candee, M. D., of Syracuse to succeed Gates Thalheimer, resigned, for a term to expire February 2, 1909.

April 22. Frederick R. Smith of Rochester to succeed John M. Lee, M. D., for a term to expire February 1, 1910.

April 22. Albert H. Tracy, Jr., of Buffalo to succeed Lyman M. Bass, resigned.

April 22. Lura E. Aldridge of Rochester reappointed.

April 22. Andrew H. Bown of East Rochester reappointed.

April 22. Roger B. Williams of Ithaca reappointed.

April 22. Patrick H. Cochrane of Buffalo reappointed.

For terms to expire February 7, 1911.

Confirmed April 22.

#### MANAGERS ROME STATE CUSTODIAL ASYLUM.

April 21. Stoddard M. Stevens of Rome to succeed Homer T. Fowler, deceased, for a term to expire March 20, 1909.

April 21. Edwin F. Torrey, Jr., of Clinton to succeed Thomas R. Proctor, resigned, for a term to expire March 20, 1913.

April 21. George W. Adams of Utica to succeed Francis K. Kernan, resigned, for a term to expire March 30, 1913.

Confirmed April 21.

#### MANAGERS SYRACUSE STATE INSTITUTION FOR FEEBLE-MINDED CHILDREN.

April 23. William D. Dunning of Syracuse to succeed William H. Warner, deceased, for a term to expire December 31, 1909. Confirmed April 23.

June 9. Rt. Rev. Patrick A. Ludden of Syracuse reappointed for a term to expire February 7, 1911. Confirmed June 10.

Dec. 21. William W. Wiard of Syracuse to succeed William D. Dunning, resigned. Recess appointment requiring confirmation.

## MANAGERS THOMAS INDIAN SCHOOL.

- Jan. 1. Samuel G. Keyes of Gowanda reappointed for a term to expire March 14, 1913. Confirmed January 13.
- April 17. Mate C. Grezinger of Buffalo to succeed Lilla C. Wheeler, resigned, for a term to expire March 14, 1913. Confirmed April 17.
- April 17. James E. Bixby of Dayton to succeed Irving R. Leonard, resigned, for a term to expire March 14, 1913. Confirmed April 17.

## TRUSTEES NEW YORK STATE SOLDIERS AND SAILORS' HOME.

- Jan. 15. Joseph A. Goulden of New York city to succeed himself, failed to qualify. Confirmed January 15.
- April 21. John H. Swift of Union to succeed George W. Dunn, resigned. Term to expire April 16, 1909. Confirmed April 21.

## MANAGERS NEW YORK STATE WOMAN'S RELIEF CORPS HOME.

- June 10. Ella F. B. Scott of New York city reappointed for a term to expire February 2, 1909.
- June 10. Susan E. Atkins of Buffalo to succeed Ada G. Mohr, term expired, for a term to expire February, 1911.
- June 10. George W. Ray of Norwich reappointed for a term to expire February, 1912.  
Confirmed June 11.

## MANAGERS OF THE CRAIG COLONY FOR EPILEPTICS.

- April 17. Abbott Low Dow of Brooklyn reappointed for term to expire May 16, 1911.
- April 17. Jeanette R. Hawkins of Malone reappointed for a term to expire May 16, 1911.
- April 17. William A. Douglas of Buffalo to succeed George L. Williams, resigned, for a term to expire May 16, 1911.

- April 17. James H. Loomis of Attica reappointed for a term to expire May 16, 1911.  
Confirmed April 17.

### REFORMATORIES

#### MEMBERS OF THE STATE BOARD OF MANAGERS OF REFORMATORIES.

- Jan. 1. Morris M. Wall of Buffalo reappointed for a term to expire December 31, 1910. Confirmed January 13.
- April 16. Marvin Olcott of Corning to succeed Justus H. Harris, deceased, for a term to expire December 31, 1914. Confirmed April 16.
- April 16. Charles J. Liebmann of New York city to succeed Henry Solomon, resigned, for a term to expire December 31, 1908. Confirmed April 16.
- Sept. 26. Charles J. Liebmann of New York city to succeed himself; failed to qualify, for a term to expire January 26, 1909. Recess appointment requiring confirmation.

#### MANAGERS NEW YORK STATE REFORMATORY FOR WOMEN.

- Jan. 15. Katharine Cowdin Marquand of Bedford reappointed for a term to expire December 31, 1913. Confirmed January 15.
- Sept. 26. Florence Jaffray Harriman of Mt. Kisco. Recess appointment requiring confirmation.

### JUDICIAL

#### JUSTICE OF THE SUPREME COURT — SECOND DISTRICT.

- Jan. 1. Abel E. Blackmar of the county of Kings as a justice of the Supreme Court of and for the second judicial district, to fill the vacancy caused by the filing of the oath of office of Willard Bartlett pursuant to his election as an associate judge of the Court of Appeals. Confirmed January 13.

## SPECIAL COUNTY JUDGE — COUNTY OF CHENANGO.

Feb. 12. Archie D. Gibbs of Norwich as special county judge of and for the county of Chenango, to fill the vacancy created by the resignation of Julien E. Scott. Confirmed February 12.

## JUSTICE OF THE SUPREME COURT — SECOND DISTRICT.

March 5. Luke D. Stapleton of the county of Kings as a justice of the Supreme Court of and for the second judicial district, to fill the vacancy caused by the death of George B. Abbott. Confirmed March 9.

## COUNTY JUDGE AND SURROGATE — ROCKLAND COUNTY.

April 27. Alonzo Wheeler of Haverstraw as county judge and surrogate of and for the county of Rockland, to fill the vacancy created by the death of Andrew X. Fallon.

## COUNTY JUDGE — ST. LAWRENCE COUNTY.

June 24. Clarence S. Ferris of Canton as county judge of and for the county of St. Lawrence, to fill the vacancy created by the resignation of Ledyard P. Hale.

## SURROGATE — ULSTER COUNTY.

Aug. 3. Walter N. Gill of Kingston as surrogate of and for the county of Ulster, to fill the vacancy created by the resignation of Charles Davis.

## JUSTICE OF THE SUPREME COURT — FIRST DISTRICT.

Oct. 13. Matthew Linn Bruce of New York city as a justice of the Supreme Court of and for the first judicial district, to fill the vacancy created by the resignation of David Leventritt.



## HONORARY

## CONFERENCE OF THE AMERICAN MEDICAL ASSOCIATION.

April 3, 1908. Delegate to the Fourth Annual Conference of the Council on Medical Education of the American Medical Association, to be held in Chicago, Ill., April 13, 1908: William Warren Potter, M.D., of Buffalo.

## CONFERENCE OF GOVERNORS.

April 6, 1908. Delegates to accompany Governor Hughes to the Conference of Governors, to be held in Washington, May 13-15, 1908, to consider the conservation of natural resources: Nicholas Murray Butler, President of Columbia University, New York city; Jacob Gould Schurman, President of Cornell University, Ithaca; James S. Whipple, State Forest, Fish and Game Commissioner, Salamanca.

## CONFERENCE OF CHARITIES AND CORRECTION.

April 29, 1908. Delegates to the Thirty-fifth Annual Session of the National Conference of Charities and Correction, to be held in Richmond, Va., from May 6 to May 13, 1908: William Rhinelander Stewart of New York; Simon W. Rosendale of Albany; Dennis McCarthy of Syracuse; Albert Warren Ferris, M.D., of New York; Charles F. Howard, M.D., of Buffalo; Homer Folks of Yonkers; Robert W. DeForest of New York; Robert W. Hebbard of New York; Nathan Bijur of New York; Edward T. Devine of New York; Thomas M. Mulry of New York; Cornelius V. Collins of Troy.

## LEGISLATIVE AND GOOD ROADS CONVENTION.

July 6, 1908. Delegates to the Legislative and Good Roads Convention, to be held at Buffalo, N. Y., July 7th and 8th of the current year, under the auspices of the American Automobile Association: Hon. William H. Hotchkiss of Buffalo, Hon. Henry W. Hill of Buffalo, Hon. George A. Davis of Buffalo, Hon. Jotham P. Allds of Norwich, Hon. Arthur Warren of Rochester.

## INTERNATIONAL FISHERY CONGRESS.

August 12, 1908. Delegates to the International Fishery Congress, to be held in Washington, D. C., September 22d to 26th of the current year: Hon. George B. Grinnell of New York, George E. Jennings of New York, Hermon C. Bumpus of New York.

## CONFERENCE ON STATE AND LOCAL TAXATION.

August 31, 1908. Delegates to the Second International Tax Conference on State and Local Taxation, to be held in Toronto, Can., beginning the 6th day of November of this current year: Lawson Purdy of New York, Prof. Edwin R. A. Seligman of New York, Hon. Egbert E. Woodbury of Jamestown.

## ROAD CONGRESS.

August 31, 1908. Delegate to the International Road Congress, to be held in Paris, France, beginning the 11th day of October of this current year: Clifford Richardson of Long Island City. (Similar credential issued on October 1 to Philip W. Henry of New York city.)

## FISHERY CONGRESS.

September 1, 1908. Delegate to the International Fishery Congress, to be held in Washington, D. C., September 22d to 26th of the current year: C. H. Wilson of Glens Falls. (Similar credentials issued on September 19, 1908, to Dr. Tarleton H. Bean of Smithtown, and B. Frank Wood of Jamaica.)

## STATE CONSERVATION COMMISSION.

September 2, 1908. Members of the State Conservation Commission, to act in conjunction with the National Conservation Commission: Hon. James S. Whipple, Forest, Fish, and Game Commissioner, Chairman; Hon. Raymond A. Pearson, Commissioner of Agriculture; Hon. Henry H. Persons, President of the Board of State Water Supply Commission-

ers; Hon. Frederick C. Stevens, Superintendent of Public Works; Hon. Andrew S. Draper, Commissioner of Education; and Hon. Frederick Skene, State Engineer and Surveyor.

#### IRRIGATION CONGRESS.

September 16, 1908. Delegate to the Sixteenth National Irrigation Congress, to be held in Albuquerque, N. Mex., beginning the 29th day of September of this current year: William F. Gurley of Troy, N. Y.

#### ANNUAL MEETING OF THE AMERICAN PRISON ASSOCIATION.

November 11, 1908. Delegates to the Annual Meeting of the American Prison Association, to be held in Richmond, Va., beginning the 14th day of November of this current year: Cornelius V. Collins of Troy; Charles F. Howard, M. D., of Buffalo; Joseph F. Scott of Elmira.

#### CONVENTION OF THE ATLANTIC DEEPER WATERWAYS ASSOCIATION.

November 13, 1908. Delegates to the Convention of the Atlantic Deeper Waterways Association, to be held in Baltimore, Md., beginning on the 17th day of November of this current year: George Clinton of Buffalo; Harry de B. Parsons of New York city; William J. Roe of Newburgh; Arthur Knox of New York city; John M. Peters of New York city, borough of Brooklyn.

#### MEETING OF THE NATIONAL SOCIETY FOR THE PROMOTION OF INDUSTRIAL EDUCATION.

November 13, 1908. Delegate to the meeting of the National Society for the Promotion of Industrial Education, to be held in Atlanta, Ga., beginning on the 19th day of November of this current year: Arthur D. Dean of Albany.

#### CONVENTION OF THE NATIONAL RIVERS AND HARBORS CONGRESS.

November 16, 1908. Delegates to the Annual Convention of the National Rivers and Harbors Congress, to be held in

Washington, D. C., beginning on the 9th day of December of this current year: Seth Low of New York city, Robert J. MacFarland of Brooklyn, Frederick C. Stevens of Attica, Edward H. Butler of Buffalo, John D. Kernan of Utica.

#### CONFERENCE ON WEIGHTS AND MEASURES.

November 20, 1908. Delegate to the Fourth Annual Conference on Weights and Measures, to be held in Washington, D. C., on the 17th day of December of this current year: Fritz Reichmann of Troy.

#### HUDSON-FULTON CELEBRATION COMMISSION.

Albany, December 29. As additional members of the Hudson-Fulton Celebration Commission, recommended by Governor Fort of New Jersey:

Hon. Edward C. Stokes, Trenton.

Hon. Franklin Murphy, Newark.

Hon. John F. Dryden, Newark.

Hon. John W. Griggs, Paterson.

Hon. Foster M. Voorhees, Elizabeth.

Hon. George T. Werts, Jersey City.

Hon. John Dyneley Prince, Ringwood.

Mr. James Kerney, Trenton.

Mr. Wallace M. Scudder, Newark.

Mr. William T. Hunt, Newark.

Mr. Henry M. Doremus, Newark.

Mr. Thomas J. Hillery, Boonton.

Hon. H. Otto Wittpenn, Jersey City.

Mr. John H. Ramsey, Hackensack.

Mr. Matthew C. Ely, Hoboken.

The Governor also appointed the Hon. H. B. Swartwout, mayor of Port Jervis.\*

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\* Chapter 217, Laws of 1908, included the mayors of cities as members of the Commission—Port Jervis was omitted.

## **VII**

### **DESIGNATIONS**



## VII DESIGNATIONS

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### Court Designations

NAME.	DESIGNATION.
William J. Gaynor.	Redesignated as an Associate Justice of the Appellate Division, Supreme Court, Second Department. Redesignated January 1, 1908.
John Woodward...	Redesignated as an Associate Justice of the Appellate Division, Supreme Court, Second Department. Redesignated January 1, 1908.
Joseph A. Burr...	Designated as an Associate Justice of the Appellate Division, Supreme Court, Second Department. Designated December 24, 1908.

### COURT DESIGNATION REVOKED.

John S. Lambert..	Designation as an Associate Justice of the Appellate Division, Supreme Court, First Department; revoked at own request. Designation revoked January 31, 1908.
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**Designation of Attorney-General to Attend a Term of the Supreme Court to be Held in Queens County in January, 1908, in Relation to the Acquisition of Land for Kissena Park**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, January 20, 1908.

HON. WILLIAM SCHUYLER JACKSON, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.— Pursuant to the provisions of section 52 of chapter 683 of the Laws of 1892, I hereby require that you, the Attorney-General of the State of New York, attend in person, or by one of your deputies, a term of the Supreme Court appointed to be and being held in and for the county of Queens for the month of January, 1908, which said term was appointed to begin upon the first Monday of said month, and at such later term or terms of said court, appointed or fixed, as shall be held in and for said county, and that you in person, or by said deputy, appear before the grand jury drawn and now sitting for said January term of said court, and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court, for the purpose of managing and conducting in said court, and before said January grand jury and said other grand juries, any and all proceedings, examinations, and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury so drawn for said January term, or by or before any such other grand jury upon, concerning, or relating to any criminal charge against any person, arising, growing out of, or based upon any purchase of land by the city of New York for, as, or to be a part of what is, or is to be, known as Kissena park in the county of Queens; and that, in person or by your deputy, in the place and stead of the district attorney of Queens county, you exercise all the



powers and perform all the duties conferred upon you by said section 52 and by this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

NOTE.—Original filed with Mr. Ford, Attorney-General's office, 6:15 p. m. the 20th; duplicate original filed with Secretary of State 9 a. m. the 21st.

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**Designation of Attorney-General to Attend a Term of the Supreme Court in New York County (Criminal Branch) and Conduct Proceedings Before the Grand Jury Relating to Any Criminal Charge or Charges Against the American Ice Company**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, February 11, 1908.

HON. WILLIAM SCHUYLER JACKSON, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 52 of chapter 683 of the Laws of 1892, I hereby require that you, the Attorney-General of the State of New York, attend in person, or by one of your deputies, the present term of the Supreme Court in and for the county of New York (Criminal Branch), and at such later term or terms of said court, appointed or fixed, as shall be held in and for said county, and that you in person, or by said deputy, appear before the grand jury drawn and now in session for said term of said court and before any grand jury or grand juries which may be drawn and sit for any later term or terms of said court, for the purpose of managing and conducting in said court, and before said grand jury and said other grand juries, any and all proceedings, examinations, and inquiries, and any and all criminal actions and proceedings, which may be had or taken by or before said grand jury so drawn and in session, or by or before any such other grand jury, concerning or relating to any criminal charge

or charges against the American Ice Company, a foreign corporation doing business in this State, and the officers, directors, managers, or agents thereof, that they, or any of them, did make or attempt to make or enter into any contract, agreement, arrangement, or combination whereby a monopoly in the manufacture, production, and sale in this State of ice was or may be created, established, and maintained, and whereby competition in this State in the supply and price thereof was or may be restrained and prevented, and did any acts pursuant thereto and for the consummation thereof in violation of chapter 690 of the Laws of 1899 and the provisions of the Penal Code; and that, in person or by your deputy, in the place and stead of the district attorney of New York county, you exercise all the powers and perform all the duties conferred upon you by said section 52 and by this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

NOTE.—Filed with Attorney-General and Secretary of State February 11, 1908.

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**Designation of Attorney-General to Attend a Term of the Supreme Court to be Held in Erie County in March, 1908, to Conduct a Criminal Action Pending Against Paul Werner**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, February 29, 1908.

HON. WILLIAM SCHUYLER JACKSON, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 52 of chapter 683 of the Laws of 1892, I hereby require that you, the Attorney-General of this State, attend in person, or by one of your deputies, a term of the Supreme Court appointed to be held in and for the county of Erie on the first Monday of March, 1908, and at such later term or terms of said court

as may be appointed or fixed, for the purpose of managing and conducting in and before said court a criminal action therein pending against Paul Werner upon a charge of perjury, upon an indictment found by the grand jury of Erie county for the November term, 1907; and that in person, or by your deputy, in the place and stead of the district attorney of Erie county, you exercise all the powers and perform all the duties conferred upon you by said section 52 and this requirement made thereunder.

(Signed) CHARLES E. HUGHES.

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**Designation of the Attorney-General to Attend a Term of the Supreme Court to Be Held in Allegany County in March, 1908, and Conduct a Criminal Action Against Eugene A. Georger**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, February 29, 1908.

HON. WILLIAM SCHUYLER JACKSON, *Attorney-General of the State of New York, Albany, N. Y.:*

SIR.—Pursuant to the provisions of section 52 of chapter 683 of the Laws of 1892, I hereby require that you, the Attorney-General of this State, attend in person, or by one of your deputies, a term of the Supreme Court appointed to be held in and for the county of Allegany on the first Monday of March, 1908, and at such later term or terms of said court as may be appointed or fixed for the purpose of managing and conducting in and before said court a certain criminal action therein pending (the same having been removed for trial to this court, in and for the said county of Allegany, from the county of Erie) against Eugene A. Georger, the charge in the indictment against the said Georger being perjury; and that in person, or by your deputy, in the place and stead of the district attorneys of Erie county and of Alle-

gany county, you exercise all the powers and perform all the duties conferred upon you by said section 52 and this requirement made thereunder.

(Signed)

CHARLES E. HUGHES.

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**Designation of Attorney-General to Attend an Extraordinary Trial Term of the Supreme Court in Clinton County in August, 1908, and Conduct Proceedings Before the Grand Jury in Relation to Any Violation of the Election Law**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

TO THE HON. WILLIAM SCHUYLER JACKSON, *Attorney-General of the State of New York, Albany:*

SIR.— Pursuant to the provisions of section 52 of chapter 683 of the Laws of 1892, I hereby require that you, the Attorney-General of this State, attend in person, or by one of your deputies, an extraordinary Trial Term of the Supreme Court appointed to be held in and for the county of Clinton on the 3d day of August, 1908, and that you in person or by said deputy appear before the grand jury drawn for said August term of said court, and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court, for the purpose of managing and conducting in said court and before said August grand jury, and said other grand juries, any and all proceedings, examinations, and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury so drawn for said August term, or by or before any such other grand jury upon, concerning, or relating to any criminal charge against any person or persons, growing out of or based upon any violation, or alleged violation, of the Election Law of the State of New York, or of the provisions of the Penal Code of the State of New York relating to crimes against the elective franchise; and that in person or by your deputy, in the place and stead of the district attorney of Clin-

ton county, you exercise all the powers and perform all the duties conferred upon you by said section 52 and this requirement made thereunder.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this seventh  
[L. S.] day of July in the year of our Lord one thousand  
nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,  
*Acting Secretary to the Governor.*

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**Designation of Charles S. Whitman to Assist in the  
Prosecution of Criminal Actions at an Extraordinary  
Trial Term of the Supreme Court in Clinton County  
in August, 1908, in Relation to Any Violation of the  
Election Law**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

WHEREAS, The Governor of the State of New York has issued a requirement to the Attorney-General of the State of New York which reads as follows:

“Pursuant to the provisions of section 52 of chapter 683 of the Laws of 1892, I hereby require that you, the Attorney-General of this State, attend in person, or by one of your deputies, an extraordinary Trial Term of the Supreme Court appointed to be held in and for the county of Clinton on the 3d day of August, 1908, and that you in person or by said deputy appear before the grand jury drawn for said August term of said court, and before any grand jury or grand juries which shall be drawn and sit for any later term or terms of said court, for the purpose of managing and conducting in said court and before said August grand jury, and said other grand juries, any and all proceedings, examinations, and inquiries, and any and all criminal actions and proceedings which may be had or taken by or before said grand jury so

drawn for said August term, or by or before any such other grand jury upon, concerning, or relating to any criminal charge against any person or persons, growing out of or based upon any violation, or alleged violation, of the Election Law of the State of New York, or of the provisions of the Penal Code of the State of New York, relating to crimes against the elective franchise; and that in person or by your deputy, in the place and stead of the district attorney of Clinton county, you exercise all the powers and perform all the duties conferred upon you by said section 52 and this requirement made thereunder."

THEREFORE, In pursuance of the authority conferred upon me by section 55 of the Executive Law, and it appearing to my satisfaction that the public interest requires it, I do hereby designate and employ

Honorable CHARLES S. WHITMAN

of New York city as attorney and counsel to assist in the transaction of legal business mentioned in the requirement hereinbefore set forth, and to assist in the management, presentation, conducting, and prosecution of the inquiries, examinations, criminal actions, and proceedings therein mentioned, and to perform all such services with reference to said business as may be necessary or proper.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this seventh  
[L. S.] day of July in the year of our Lord one thousand  
nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

GEORGE CURTIS TREADWELL,

*Acting Secretary to the Governor.*

**VIII**  
**SPECIAL TERMS OF COURT**





# VIII

## SPECIAL TERMS OF COURT

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### Extraordinary Trial Term

JUDGE	PLACE	ACTION TAKEN BY GOVERNOR
Pascal C. J. De Angelis.	Oswego, Oswego County, on March 16, 1908.	Designated on February 12, 1908, to hold extraordinary trial term.
Henry B. Coman....	Plattsburg, Clinton County, on August 3, 1908.	Designated on July 7, 1908, to hold extraordinary trial term.
Watson M. Rogers..	Borough of Brooklyn, City of New York, on August 25, 1908.	Designated on August 1, 1908.
Garret J. Garretson.	Flushing, Queens County, September 21, 1908.	Designated on August 29, 1908, to hold extraordinary trial term.



**IX**  
**REMOVAL PROCEEDINGS AND**  
**COMPLAINTS**



## IX

### REMOVAL PROCEEDINGS AND COMPLAINTS

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#### Proceedings for the Removal of the Superintendent of Insurance

Charges were laid before the Governor on August 12, 1907.

##### APPOINTMENT OF COMMISSIONER.

Matthew C. Fleming, of New York city, was appointed a commissioner on August 20, 1907, under chapter 539 of the Laws of 1907, to investigate the Insurance Department. He made his report to the Governor on January 30, 1908, recommending the removal of the Superintendent.

##### MESSAGE TO THE SENATE.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany February 11, 1908.

*To the Senate:*

In August last charges were filed against the Superintendent of Insurance which related to his administration of that department. I appointed Mr. Matthew C. Fleming of the New York Bar, under section 7 of the Executive Law, to investigate those charges and generally to examine into the affairs of the department. I transmit to you herewith his report, together with the testimony taken by him.

The Department of Insurance and the office of Superintendent of Insurance were created by the Legislature. The Superintendent is appointed by the Governor by and with the advice and consent of the Senate, and holds his office for three years subject to removal by the Senate upon the recommendation of the Governor. The power to remove is not dependent upon

the presentation of charges as in the case of officers removable by the Governor pursuant to the Constitution, or as in the case of elected State officers removable by the Senate.

This is the case of an appointed head of a department where the Legislature has provided an absolute power of removal. The only question is whether the removal of the officer is in the interest of the service of the State.

I am not unmindful of the labors of the department, of the multiplicity of details with which it is concerned, of the volume of its correspondence, of the many questions submitted to it for decision and its required action upon a great variety of matters under the statute. Although to some extent recently increased, these duties have existed and a vast amount of work has been performed for many years. Yet side by side with these departmental activities there grew up wasteful and corrupt methods which scandalized the country and brought the supervision of the department with regard to the important interests of the holders of life insurance policies into contempt.

It became obvious that a department might exist with a large staff apparently busily employed; that its labors might be represented in volumes of reports; that it might make recommendations for legislation and pass upon a multitude of questions in the course of department routine without taking measures of first importance within its powers for the prevention of abuses and the protection of the policyholders. There was probably no time prior to the insurance investigation of 1905 when the Insurance Department could not have made an imposing report of the difficulties which it had to encounter, the burdens it was required to bear, and the incessant labors which it performed.

But in that investigation it also appeared that if its energy had been well directed and the department had been efficient in the true sense most of the scandals which were revealed could not have existed.

I also appreciate the fact that the present Superintendent on taking office confronted unusual conditions. But he had conspicuous advantages. He took office with abuses ascer-

tained; with the derelictions of the department known; and with clearly defined obligations which were not left for him to discover, but which were writ large in the minds of all the people of the State. He was also equipped with additional powers.

I am mindful of the important reforms which through the pressure of public opinion and necessary legislation have been made in life insurance management; of the economies which have been effected; and of the improper practices which have been abandoned. But it is the business of the State to assure policyholders that old conditions shall not be permitted to return, and that every needed reform shall be carried out. Legislation must be supplemented by vigorous departmental action. It is essential that the Superintendent should be fully alive to the exigency and should make suitable use of his power.

Mr. Kelsey took office on May 16, 1906, and has now served more than one-half his term. At the time Mr. Fleming began the taking of testimony, he had served for a year and five months. He had had full opportunity to show whether he was equal to his important duties.

But the facts submitted establish beyond cavil that the present Superintendent has not measured up to the standard which the State must maintain and upon which, in deference to the vast interests involved, it is my duty, so far as my power goes, to insist.

Superintendent Kelsey has failed properly to reorganize the department and thus to meet an obvious obligation. The work of the department had been a travesty on State supervision. Had it been a branch of the life insurance companies themselves it could hardly have been less effective in enforcing the rights of those for whose protection it was supposed to exist. It must have been clear to any one competent to be its chief and to establish it upon a proper basis, that a thorough overhauling was necessary. No amount of routine work or of assiduity in other directions can avail to obscure this paramount duty.

The Superintendent has had a free hand, as it appears that only three of his subordinates were veterans. He has had abundant time. But the house has not been cleaned.

Mr. Vanderpoel and Mr. Hunter, whose detention despite the disclosures of the insurance investigation, was made the subject of criticism last year, resigned and left the department at the end of January and February last respectively. The examining force has been strengthened by the appointment of new men. But in other respects very little has been done to improve the efficiency and trustworthiness of the organization. Those whose neglect facilitated the disclosed abuses still retain their places.

There has been no appropriate effort to fix responsibility for the past derelictions of the department and to determine by suitable inquiry upon whom reliance could be placed. The Superintendent has also failed to give specific instructions in order to guard against repetition of neglect.

In these circumstances such repetitions are likely to occur and have occurred. Thus in the annual statements filed last year, as of December 31, 1906, transactions appeared which under the ruling of the Superintendent were illegal, but they passed unnoticed until Mr. Fleming's examination. If, as now stated, the reports themselves are erroneous in these particulars this fact may absolve the company, but it does not save the departmental work from the discredit of failure to discover the transactions which on the face of the reports as filed were contrary to law. So also, the omission of particulars required by the statute to be made in the annual statement, and other matters which were set forth and which plainly demanded inquiry, escaped attention.

In the insurance investigation it was urged that the department was one of audit only; that its business was to attest the solvency of the companies and not to supervise their management.

In testifying before the judiciary committee of the Senate last March with regard to this important matter of audit the Superintendent thus described the work of his statistical bureau (Proceedings, ed. 1907, page 43; ed. 1908, pages 95-96):

"The financial statements are turned over to the statistician and he audits them and makes the abstracts and tabulations that appear in the annual report." \* \* \*



"Q. What are the other duties in connection with that? Is there any audit of annual statements? A. I stated that when I was speaking before; they are all audited by the State statistician, and it requires frequently voluminous correspondence; various items or conditions need explanation or correction, the putting in of assets that are not to be admitted and frequently a number of letters are written back and forth before the account is properly stated and filed. \* \* \*

"Q. Is there any examination with respect to the securities? A. Yes, sir.

"Q. What is that? A. As to the verification of it — as to the values, the market quotations, the amount they claim credit for — whether they are accurate or not; all of that is gone through and corrected.

"Q. In that department? A. Yes."

Despite this testimony it now appears that there is no audit worthy the name. The State statistician not only does not make any adequate attempt to verify the market value of the securities reported each year, but it appears he has never been instructed to do so. This matter was considered in Mr. Fleming's examination. And in order to have a suitable audit the Superintendent proposes in his last report (January, 1908, page 15), "a special bureau of audit" which he says will be necessary "if the duty of thoroughly examining the schedules of assets filed by insurance companies and the elimination of errors in description and valuation of securities is to be efficiently performed. The services of experts in fixing the fair and reasonable value of securities in detail will also be indispensable."

But the necessity for this should long ago have been discovered and provision for a proper audit made. This did not require any elaborate inquiry. It was the duty of the Superintendent to avail himself to the utmost of the machinery he possessed and promptly to ascertain and present his additional needs.

The condition of the companies, however, cannot be ascertained without an audit of liabilities as well as of assets. And in determining these liabilities the valuations of the outstand-

ing policies by which the amount of the necessary reserve is fixed are of the first importance. But these are without proper verification. It appears that in the case of the large life insurance companies, for some years, the policies have been presented on loose sheets in groups without policy numbers. The calculations are made by the companies' actuaries, these calculations being simply checked by the department. They are presented in a manner which makes them extremely difficult of verification by any comparison with the companies' books, and in the case of the four large companies, save in the case of one company in one year, it does not appear that the sheets made up by the companies have been suitably verified since the group system was adopted. As Mr. Fleming says, "from these sheets it would also be impossible to detect fraudulent lapses and restorations or changes in the method of valuing a given policy." These sheets go back and forth from the companies to the department for correction. There is no audit in any proper sense.

It is evident that no proper supervision of the companies can be maintained simply by scrutiny of the annual statements or by full examinations which take place at long intervals. It is essential that in the course of the year and during the periods between examinations the Superintendent should call for information such as will enable him to keep reasonably posted with reference to important classes of transactions. This is specially important with reference to companies whose past transactions have merited criticism. In this way alone by repeated demands to test the course of management, can adequate protection to the policyholders be assured through the supervision of the State. Requiring information from time to time as to purchases and sales, collateral loans, etc., is a necessary feature of efficient departmental work. Particularly is this so with reference to the disposition made by companies of stocks which they are required to dispose of under the law. And by this method, with its attendant publicity, the use of the accumulations of the companies to advance the personal interests of officers, directors, or other persons in position to influence the management may be prevented.

It was not until about November last, and after Mr. Fleming had begun his inquiries, that the Superintendent began to require such *ad interim* reports, and hence has been unfamiliar with important transactions and he has failed to make such inquiry or protest as the nature of the transactions required.

The demand for such supervision is entirely reasonable and an administration which for a year and a half omitted it is unworthy of continued confidence. Reflection upon the vital importance of the interests concerned, of the vast number of our people who depend upon life insurance for the security of their homes, of the enormous accumulations made up of the contributions of policyholders which afford constant temptation to extravagance and unscrupulous scheming should make us realize that their supervision should be constant and vigorous, and that lack of it and the want of appreciation of its need should not be tolerated.

It is not necessary to take up in detail the various matters commented upon by Mr. Fleming. They appear sufficiently in his report, and without repetition here I commend them to your careful consideration. The delays in instituting reforms that are plainly needed, the failure to take full advantage of the machinery provided by law for the protection of the rights of policyholders, the lack of proper attention to matters as to which the department is in a position greatly to aid the policyholders in securing the proper fulfilment of their contracts, are without excuse.

I may mention the case of the Provident Savings Life Assurance Society. The abuses which existed in connection with its then control were disclosed in the insurance investigation in 1905. Following this, arrangements were made, through a disposition of its stock, to place it upon a better footing. In January, 1907, however, the stock control passed to those who apparently contemplated the improper manipulation of its funds. It appears that securities to a large extent were sold, and instead of being properly reinvested, the proceeds were placed in banks in which the purchasers of the stock were interested. Had the department been watchful and

had it been its practice to secure periodic reports it would have been fully advised of the situation. Instead, it was apparently in complete ignorance.

About September 11th Mr. Kelsey was informed by Hon. Edward W. Hatch, one of the gentlemen who acted as his counsel in the removal proceedings last spring, that he had heard that "there were matters in the Provident Savings that needed attention." The same day an officer of a prominent corporation told him the same thing, "in about the same language." The latter informed him of reports as to litigation with reference to the purchase of the stock of the company. Beyond some general and inadequate inquiries, Mr. Kelsey did nothing. He made no suitable attempt to possess himself of information as to the financial condition of the company. Three or four weeks later the Insurance Commissioner of Colorado was led by reports of the purchase of a controlling interest in the company to make a preliminary survey, which disclosed the manner in which the funds of the company had been handled and the necessity of a thorough examination. Although he had received from a source deserving credit an advance intimation of difficulties in the company, Superintendent Kelsey failed to take advantage of his opportunity or to perform his duty and he first learned of the manner in which the funds of the company had been used from information which the Colorado Commissioner had obtained and furnished him. Following his preliminary survey the Colorado Commissioner began a full examination and invited the New York Superintendent to join him. Mr. Kelsey did join him, and through examiners rendered valuable assistance.

It appears that Mr. Kelsey was busy at the time in making an examination of another company. But a few well-directed inquiries would have given him the same preliminary survey which the Colorado Commissioner obtained. The existing financial conditions made prompt action important. Whether, or when, any action would have been taken had it not been for the intervention of the Colorado Commissioner may be left to conjecture. And to say the least it is mortifying in the extreme in view of the powers of the Superintendent and the

facts recently disclosed in this State, it should be left to a commissioner from Colorado to reveal the necessity of the examination of a New York corporation.

The matter now presented to you is one which transcends any question of personal regard. It involves the credit of the State. In the circumstances to which I have referred the people of the State are without confidence in the administration of this important department. That confidence should be restored. The conduct of the department should exhibit that care, thoroughness, and vigilance which will guarantee adequate protection to the interests of the policyholders, and at the same time justly insure the standing and promote the success of the companies bearing the seal of the department's approval. This object, I am convinced, can be obtained in only one way, and that is by having the department placed in other hands. The interests of the State require a change should be made.

I, therefore, recommend that Otto Kelsey, Superintendent of Insurance, be removed from his office.

(Signed) CHARLES E. HUGHES.

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#### ACTION OF THE SENATE.

STATE OF NEW YORK — IN SENATE.

Albany, February 26, 1908.

Pursuant to section 22 of the Public Officers Laws (chapter 681 of the Laws of 1892), we, Lewis Stuyvesant Chanler, President of the Senate, and Lafayette B. Gleason, Clerk of the Senate, do hereby certify that, at the session of the Senate, held on the 26th day of February, 1908, the President put the following question:

“ Shall Otto Kelsey be removed from the office of Superintendent of Insurance? ”

and it was decided in the negative, as follows:

## AYES.

Agnew	Armstrong	Burr
Carpenter	Cobb	Cordts
Davis	Dunn	Emerson
Foelker	Fuller	Gilchrist
Heacock	Hinman	Knapp
Page	Saxe	Taylor
Travis		

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## NAYS.

Ackroyd	Allds	Boyce
Cassidy	Cohalan	Cullen
Fancher	Franchot	Frawley
Gates	Grady	Grattan
Harte	Hasenflug	Hill
Hooker	McCarren	McManus
Mullaney	O'Neil	Owens
Raines	Ramsperger	Smith
Sohmer	Sullivan	Tully
Wemple	White	Wilcox

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IN WITNESS WHEREOF we have set our hands and  
caused the official seal of the Senate of the State  
[L.S.] of New York to be hereunto affixed this twenty-  
sixth day of February, nineteen hundred and eight.

(Signed) LEWIS STUYVESANT CHANLER,  
*President of the Senate.*

(Signed) LAFAYETTE B. GLEASON,  
*Clerk of the Senate.*

## Proceedings for the Removal of the District Attorney of New York County

Charges by a committee of stockholders of the Metropolitan Street Railway Company, William F. King, chairman, were laid before the Governor on February 25, 1908.

### NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against William Travers Jerome,  
District Attorney of the County of New York.*

TO WILLIAM TRAVERS JEROME, *District Attorney of the  
County of New York:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of district attorney of the county of New York thereon has been asked by William F. King and I. Blum.

A copy of such charges is herewith served upon you.

I hereby fix the 9th day of March, 1908, at noon, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that on said 9th day of March, 1908, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the  
[L.S.] Capitol in the city of Albany this twenty-eighth day of February in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

**HEARING BEFORE GOVERNOR**

District Attorney Jerome submitted to Governor Hughes on March 9, 1908, his answer to the charges. The petitioners were represented by counsel.

**APPOINTMENT OF COMMISSIONER ANDREWS**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

APPOINTMENT OF COMMISSIONER.

*In the Matter of the Charges against William Travers Jerome,  
District Attorney of the County of New York.*

Charges having been filed with me on the 27th day of February, 1908, by William F. King and I. Blum against William Travers Jerome, district attorney of the county of New York, with a petition that he be removed from his office of district attorney,

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Honorable Charles Andrews of Syracuse, to take evidence as to the truth of said charges, so far as the same relate to the conduct of the office of said district attorney and his performance of duty during his present term of office.

And I hereby direct said commissioner to report to me said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this sixteenth  
[L.S.] day of March in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*



**RESIGNATION OF THE COMMISSIONER**

New York, March 30, 1908.

THE HON. CHARLES E. HUGHES:

MY DEAR GOVERNOR.—I was as you know reluctant to accept the appointment of commissioner in the Jerome investigation with which you honored me.

I also stated in my interview with you that I had arranged to go abroad in June.

When I accepted the appointment I did not appreciate the amount of time and labor involved in hearing the case. The investigation was commenced on Thursday, March 26th. But one of the twenty-three charges has so far been the subject of inquiry and more than 300 typewritten pages of testimony exclusive of exhibits have been taken, and the evidence for the defense, on this charge, has not been entered upon.

It seems probable, in view of the numerous charges to be investigated, and the necessary delays which will occur, that the investigation will not be completed in time to enable me to prepare my report before I leave home in June. Under the circumstances I think I ought to resign my office of commissioner, and I, therefore, send you my resignation.

Permit me to thank you for the expression of confidence implied in my appointment and to express my regret that circumstances prevent my continuing to discharge the duty confided to me.

I am, my dear Governor, with sentiments of the highest respect,

Yours very truly,  
(Signed) CHAS. ANDREWS.

**APPOINTMENT OF COMMISSIONER HAND**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

APPOINTMENT OF COMMISSIONER.

*In the Matter of the Charges against William Travers Jerome,  
District Attorney of the County of New York.*

Charges having been filed with me on the 27th day of February, 1908, by William F. King and I. Blum against William Travers Jerome, district attorney of the county of New York, with a petition that he be removed from his office of district attorney.

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Richard L. Hand, Esq., of Elizabethtown, to take evidence as to the truth of said charges, so far as the same relate to the conduct of the office of said district attorney and his performance of duty during his present term of office.

And I hereby direct said commissioner to report to me said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon, and

WHEREAS, Hon. Charles Andrews, heretofore appointed by me as commissioner to take evidence as to the truth of said charges, did resign after having taken certain evidence, I do hereby direct that said Richard L. Hand, Esq., as such commissioner may receive in evidence before him the evidence so taken by said, the Hon. Charles Andrews, -with the same effect as if the witnesses were re-examined.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this sixteenth

[L.S.] day of April in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

## ADDITIONAL CHARGES FILED

Additional charges by the committee of stockholders of the Metropolitan Street Railway Company were laid before the Governor on June 2, 1908.

## STATE OF NEW YORK — EXECUTIVE CHAMBER.

## BEFORE THE GOVERNOR.

*In the Matter of the Additional Charges against William Travers Jerome, District Attorney of the County of New York, filed with the Governor by William F. King and I. Blum on the 2d day of June, 1908.*

TO WILLIAM TRAVERS JEROME, *District Attorney of the County of New York:*

You are hereby notified that additional charges, dated May 29, 1908, and filed with me on the 2d day of June, 1908, have been preferred against you, and that your removal from the office of district attorney of the county of New York thereon has been asked by William F. King and I. Blum.

A copy of such additional charges is herewith served upon you.

You may file with me your answer thereto at any time on or before the 16th day of June, 1908, and thereafter, at such time as may be appointed, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the  
[L.S.] Capitol in the city of Albany this eighth day of June in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

**ADDITIONAL CHARGES REFERRED TO COMMISSIONER HAND**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

APPOINTMENT OF COMMISSIONER.

*In the Matter of the Additional Charges against William Travers Jerome, District Attorney of the County of New York, filed with the Governor by William F. King and I. Blum on the 2d day of June, 1908.*

Additional charges having been filed with me on the 2d day of June, 1908, by William F. King and I. Blum against William Travers Jerome, district attorney of the county of New York, with a petition that he be removed from his office of district attorney,

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Richard L. Hand, Esq., of Elizabethtown, to take evidence as to the truth of said charges.

And I hereby direct said commissioner to report to me said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this sixteenth  
[L.S.] day of June in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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**REPORT OF COMMISSIONER \***

The Commissioner made his report to the Governor on August 20, 1908, recommending that the charges be dismissed.

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\* The charges against the district attorney of New York county were dismissed by Governor Hughes on March 23, 1909. See Public Papers of Governor Hughes for the year 1909.

**Proceedings for the Removal of the President of the  
Borough of Queens of the City of New York**

Charges by Theodore E. Pettit and Christian G. Andersen were laid before the Governor on April 16, 1908.

NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against Joseph Bermel, President of the Borough of Queens of the City of New York.*

To JOSEPH BERMEL, *President of the Borough of Queens of the City of New York:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of president of the borough of Queens of the city of New York thereon has been asked by Theo. E. Pettit and Christian G. Andersen.

A copy of such charges is herewith served upon you.

I hereby fix the 27th day of April, 1908, at noon, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that thereafter, and on such day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the  
[L.S.] Capitol in the city of Albany this seventeenth day of April in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

## APPOINTMENT OF COMMISSIONER ORDWAY\*

STATE OF NEW YORK.—EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against Joseph Bermel, President of the Borough of Queens of the City of New York.*

Charges having been filed with me on the 16th day of April, 1908, by Theo. E. Pettit and Christian G. Andersen against Joseph E. Bermel, president of the borough of Queens of the city of New York, with a prayer that he be removed from his office of borough president of the borough of Queens of the city of New York; and

A copy of such charges having been given to said Joseph Bermel;

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Samuel H. Ordway, Esq., of the city of New York to take evidence as to the truth of said charges.

And I hereby direct said commissioner to report to me said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany this twenty-

[L.S.] eighth day of April in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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\* No answer was made by the president of the borough of Queens, city of New York, and on April 29, 1908, he resigned his office.

## Proceedings for the Removal of the Police Commissioner of the City of New York

Charges by the Society for the Prevention of Crime, Charles H. Parkhurst, president, were laid before the Governor on March 11, 1908.

### NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against Theodore A. Bingham,  
Police Commissioner of the City of New York.*

TO THEODORE A. BINGHAM, *Police Commissioner of the City  
of New York:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of police commissioner of the city of New York thereon has been asked, by the Society for the Prevention of Crime, by Charles H. Parkhurst, president, and Thaddeus D. Kenneson, secretary.

A copy of such charges is herewith served upon you.

I hereby fix the 23d day of March, 1908, at noon, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that thereafter, and on such day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the Privy Seal of the State at the

[L.S.] Capitol in the city of Albany this thirteenth day  
of March in the year of our Lord one thousand  
nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

Briefs were filed with the Governor in answer, on March 23, 1908.

## Proceedings for the Removal of the Mayor of the City of New York

Charges by the Society for the Prevention of Crime, Charles H. Parkhurst, president, were laid before the Governor on March 11, 1908.

### NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against George B. McClellan,  
Mayor of the City of New York.*

To GEORGE B. MCCLELLAN, *Mayor of the City of New York:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of mayor of the city of New York thereon has been asked, by the Society for the Prevention of Crime, by Charles H. Parkhurst, president, and Thaddeus D. Kenneson, secretary.

A copy of such charges is herewith served upon you.

I hereby fix the 23d day of March, 1908, at noon, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that thereafter, and on such day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the  
[L.S.] Capitol in the city of Albany this thirteenth day of March in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

Briefs were filed with the Governor in answer, on March 23, 1908.



### Proceedings for the Removal of the Mayor of Troy

Charges by the Excise Committee of the Ministerial Union,\* George E. Stockwell, chairman, were laid before the Governor on February 15, 1908.

#### CHARGES NOT ENTERTAINED.

#### STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, March 5, 1908.

*In the Matter of the Petition of George E. Stockwell, for the Removal of Elias P. Mann, Mayor of the City of Troy.*

A petition has been filed by George E. Stockwell for the removal, upon charges, of Elias P. Mann, mayor of the city of Troy. Apart from the merits of the charges the question is presented as to the authority of the Governor to entertain them. The petitioner claims to find this authority in chapter 670 of the Laws of 1892 — the former charter of the city of Troy — which provides in section 2 of title 2 relating to the mayor, that he may be removed by the Governor for malfeasance in office in the same manner as sheriffs.

In 1898 (Laws of 1898, chapter 182) the Legislature established a uniform charter for second-class cities and repealed all laws inconsistent with its provisions. Troy as a second-class city became subject to this uniform charter.

The reasons for giving the Governor the power to remove the mayor of any second-class city are equally applicable to all the second-class cities. It is not a case where there would be ground for permitting differentiation in legislation to suit the local needs of these cities.

If the Governor should have power to remove the mayor of the city of Troy he should have like power to remove the mayor of the city of Albany and of Syracuse and other cities in the same class, and if in the judgment of the Legislature there should be such power, plainly it would have been conferred by the uniform charter. This was the opinion of the commissioners who were appointed to propose legislation for cities of the second class. In their report they said: "We

propose to give the mayor large power and great responsibility. He is the executive head of the city government. He appoints, and under certain conditions may remove, nearly all the city officers, and thus he can hold them to responsibility for the manner in which they discharge their duties. He himself, after a hearing and proof of charges preferred against him, may be removed from office by the Governor."

This recommendation was not followed by the Legislature, and the uniform charter as adopted gives no such power. It seems that the Governor did not at the time of the adoption of this charter have the power to remove the mayor in any of the cities concerned except the city of Troy, and the action of the Legislature clearly shows that it was not deemed advisable to give him such power in the case of the second-class cities. The uniform charter was revised in 1906 (Laws of 1906, chapter 473) but with regard to this matter was left unchanged.

It is insisted, however, that the original provision of chapter 670 of the Laws of 1892 relating to the city of Troy still exists, upon the ground that it should be regarded as not inconsistent with the uniform charter and hence as not repealed. It is not necessary, however, that such inconsistency should appear by language explicitly denying the power conferred by the former provisions. In comparing the uniform charter with the old charter of the city of Troy it is found that the uniform charter provides a new scheme as to city officers and their responsibility. It is provided that the term of the mayor shall be two years and there is no suggestion that the incumbent of the office, elected by the people, may be ousted by the Governor. There are provisions with regard to the removal of city officers (where they are removable upon charges) which would be incongruous (if applied thereto) with respect to the exercise of the jurisdiction which the Governor ordinarily has in removal proceedings, as for example in the case of sheriffs, to which the former provision of the Troy charter referred.

It is not necessary to enter into an exhaustive statement of the reasons which lead me to believe that there is, to say the

least, grave doubt whether the Governor has this power in the case of the mayor of the city of Troy. The power of the Governor to remove mayors of cities and thus to secure proper accountability to the State is a salutary and most important power. But it is also an extraordinary power, as it places in the hands of the executive the authority to depose the officer elected by the people.

If it is the desire of the people, acting through their representatives, that the Governor should exercise this power, it should be conferred in unmistakable terms. The executive should not seize it in a doubtful case. Much less should he base his action upon a doubtful claim that a provision in one charter of a city of the second class has survived the adoption of the new scheme set forth in the uniform charter of such cities, when in enacting this charter the Legislature disapproved the formal recommendation that the Governor should have the power of removal of the mayors of these cities, and has refused to confer this power in an appropriate manner.

I, therefore, deem it my duty not to entertain these proceedings.

(Signed)

CHARLES E. HUGHES.

## **Proceedings for the Removal of the State Superintendent of Elections for the Metropolitan Elections District**

Charges by Nathan Vidaver and Sylvester L. Malone, in behalf of the Independence League, were laid before the Governor on November 27, 1907, and a notice and summons were issued to the Superintendent of Elections for the Metropolitan District on November 27, 1907.

### **APPOINTMENT OF COMMISSIONER CLINCH\***

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against William Leary, the State Superintendent of Elections for the Metropolitan Elections District.*

### **ORDER APPOINTING COMMISSIONER**

Charges having been preferred against William Leary, the State Superintendent of Elections for the Metropolitan Elections District, by Nathan Vidaver, Sylvester L. Malone, James A. Donegan, James A. Allen, M. F. Ihmsen, and M. J. Mack, stated to be a committee acting in behalf of the Independence League, and a copy thereof having been served upon the said William Leary with notice to answer said charges within eight days after service thereof, and the said William Leary having filed his answer making denial of said charges preferred therein;

I do hereby appoint the Hon. Edward S. Clinch, of the city and county of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and to report the evidence to the Governor and also the material facts which he shall deem to be established; and

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\* See Public Papers of Governor Hughes for the year 1907 for notice and summons.

It is hereby further ordered that the said examination before such commissioner proceed with all convenient speed.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this seventh  
[L.S.] day of January in the year of our Lord one  
thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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#### REPORT OF THE COMMISSIONER

The commissioner made his report to the Governor on April 2, 1908, recommending that the charges be dismissed.

#### DISMISSAL OF COMPLAINT.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, N. Y., June 29, 1908.

*In the Matter of the Charges of Nathan Vidaver, Sylvester L. Malone, James A. Donegan, James A. Allen, Max F. Ihmsen, and M. J. Mack, against William Leary, State Superintendent of Elections for the Metropolitan Elections District.*

#### BEFORE THE GOVERNOR.

Charges having been presented by Nathan Vidaver, Sylvester L. Malone, James A. Donegan, James A. Allen, Max F. Ihmsen, and M. J. Mack against William Leary, State Superintendent of Elections for the Metropolitan Elections District, and the said William Leary having made answer thereto, and the Hon. Edward S. Clinch having been appointed by me commissioner to take evidence as to the

truth of said charges and to make report, and the said commissioner having taken the evidence and made a report recommending that the said charges be dismissed;

Now, after consideration of the said charges, the evidence pertinent thereto, and the said report, the said charges are hereby dismissed.

(Signed) CHARLES E. HUGHES.

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### **Proceedings for the Removal of a Coroner of the Borough of Queens of the City of New York**

Charges by Arnold Davidson were laid before the Governor on April 17, 1908.

#### NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against Samuel D. Nutt, Coroner  
in the Borough of Queens of the City of New York.*

To SAMUEL D. NUTT, *Coroner in the Borough of Queens of  
the City of New York:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of coroner in the borough of Queens of the city of New York thereon has been asked by Arnold Davidson.

A copy of such charges is herewith served upon you.

I hereby fix the 27th day of April, 1908, as the date on or before which your answer to said charges shall be filed with me; and you are further notified that on said 27th day of April at 2 o'clock in the afternoon I shall give you an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the Privy Seal of the State at the  
[L.S.] Capitol in the city of Albany this seventeenth day  
of April in the year of our Lord one thousand nine  
hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor :

ROBERT H. FULLER,  
*Secretary to the Governor.*

An answer was filed by the coroner to the charges on April 25, 1908.

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#### APPOINTMENT OF COMMISSIONER FINCH

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Samuel D. Nutt,  
Coroner in the Borough of Queens of the City of New  
York.*

#### APPOINTMENT OF COMMISSIONER.

Charges having been filed with me on the 17th day of April, 1908, by Arnold Davidson, of the city of New York, against Samuel D. Nutt, coroner in the borough of Queens of the city of New York, with a petition that he be removed from his office of coroner in the borough of Queens of the city of New York, and a copy thereof having been served upon said Samuel D. Nutt, who has filed an answer to said charges,

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Edward R. Finch, of the city and county of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said commissioner to report to me the said evidence and his findings of the material facts deemed by

him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this twenty-  
[L.S.] first day of December in the year of our Lord  
one thousand nine hundred and eight.  
(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

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### **Investigation of the State Board of Embalming Examiners\***

STATE OF NEW YORK — EXECUTIVE CHAMBER.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE that pursuant to section 7 of the Executive Law, as added by chapter 539 of the Laws of 1907, I have appointed and by these presents do appoint

OWEN L. POTTER,

of the city of Albany, to examine and investigate the management and affairs of the Board of Embalming Examiners of the State of New York; the said Owen L. Potter is hereby empowered to subpoena and enforce the attendance of witnesses, to administer oaths and examine witnesses under oath, and to require the production of any books or papers deemed relevant or material;

And I hereby give and grant unto said Owen L. Potter all and singular the powers and authorities which may be given or granted unto a person appointed by me for such purpose under authority of the statute aforesaid.

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\* The Commissioner made his report on June 14, 1909.



IN WITNESS WHEREOF, I have subscribed my name to these presents and caused the Privy Seal of the State [L.S.] to be affixed hereto at the Capitol in the city of Albany this seventeenth day of July in the year of our Lord one thousand nine hundred and eight.  
(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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### **Proceedings for the Removal of the Sheriff of Saratoga County**

Charges by the Citizens' Anti-Race-Track Gambling Committee, Walter Laidlaw, chairman, were laid before the Governor on August 8, 1908.

#### NOTICE AND SUMMONS.

#### STATE OF NEW YORK — EXECUTIVE CHAMBER.

*In the Matter of the Charges against John Bradley, Jr.,  
Sheriff of the County of Saratoga.*

TO JOHN BRADLEY, JR., *Sheriff of the County of Saratoga:*

You are hereby notified that charges have been preferred against you, and that your removal from the office of sheriff of the county of Saratoga thereon has been asked by Walter Laidlaw.

A copy of such charges is herewith served upon you.

I hereby fix the 17th day of August, 1908, at 3 o'clock P. M., as the date on or before which your answer to said charges shall be filed with me; and you are further notified that on said 17th day of August, 1908, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the Privy Seal of the State this tenth  
[L.S.] day of August in the year of our Lord one thou-  
sand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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### MOTION BY THE SHERIFF TO DISMISS THE CHARGES

BEFORE THE GOVERNOR.

*In the Matter of the Charges Preferred against John  
Bradley, Jr., Sheriff of Saratoga County, by Walter  
Laidlaw.*

In pursuance of a summons issued by the Governor of the State of New York, under his hand and the Privy Seal of the State, dated the 10th day of August, 1908, directed to John Bradley, Jr., sheriff of Saratoga county, the said Bradley hereby appears personally and by his counsel, Edgar T. Brackett, and objects to the further consideration of said charges, and moves that the same be dismissed on the ground that the Governor has no jurisdiction thereunder, for the reason that none of said charges constitutes a sufficient allegation of official misconduct on the part of said John Bradley, Jr., as sheriff of Saratoga county.

Dated August 17, 1908.

(Signed) JOHN BRADLEY, JR.

EDGAR T. BRACKETT,

*Attorney for John Bradley, Jr.,*

Town Hall, Saratoga Springs, N. Y.

The motion to dismiss was denied on August 17, 1908, and a hearing was given on the charges on August 17, 1908, in the Executive Chamber.

## APPOINTMENT OF COMMISSIONER SCHURMAN

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of the Charges against John Bradley, Jr.,  
Sheriff of the County of Saratoga.*

## APPOINTMENT OF COMMISSIONER.

Charges having been filed with me on the 8th day of August, 1908, by Walter Laidlaw against John Bradley, Jr., sheriff of the county of Saratoga, with a petition that he be removed from his office as sheriff of Saratoga county, and a copy thereof having been served upon said sheriff, who had filed an answer denying the truth of said charges;

Now, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint George W. Schurman, of the city and county of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said commissioner to report to me the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this eighteenth  
[L.S.] day of August in the year of our Lord one  
thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By, the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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REPORT OF COMMISSIONER\*

Commissioner Schurman made his report on March 22, 1909, recommending that the charges be dismissed.

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\* The charges against the sheriff of Saratoga county were dismissed by Governor Hughes on June 21, 1909. See Public Papers of Governor Hughes for the year 1909.

## Proceedings for the Removal of the Sheriff of Albany County

Charges by the Executive Committee of the Civic League of Albany, C. M. Culver, chairman, were laid before the Governor on August 18, 1908.

### NOTICE AND SUMMONS.

#### STATE OF NEW YORK — EXECUTIVE CHAMBER.

*In the Matter of the Charges against Joseph Besch, Sheriff of the County of Albany.*

To JOSEPH BESCH, *Sheriff of the County of Albany*:

You are hereby notified that charges have been preferred against you, and that your removal from the office of sheriff of the county of Albany thereon has been asked by C. M. Culver, chairman of the Executive Committee of the Civic League of the city of Albany, and Horatio M. Pollock, general secretary thereof.

A copy of such charges is herewith served upon you.

I hereby fix the 29th day of August, 1908, at 10 A. M., as the date on or before which your answer to said charges shall be filed with me; and you are further notified that on said 29th day of August, 1908, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State this nineteenth day of August in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

A hearing was given by the Governor on the charges on August 29, 1908.

## APPOINTMENT OF COMMISSIONER BEATTYS

STATE OF NEW YORK — EXECUTIVE CHAMBER. .

BEFORE THE GOVERNOR.

*In the Matter of the Charges against Joseph Besch, Sheriff  
of the County of Albany.*

## APPOINTMENT OF COMMISSIONER.

Charges having been filed with me on the 18th day of August, 1908, by C. M. Culver and Horatio M. Pollock, against Joseph Besch, sheriff of the county of Albany, with a petition that he be removed from his office as sheriff of Albany county, and a copy thereof having been served upon said sheriff, who has filed an answer denying the truth of said charges;

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint George D. Beattys, of the borough of Brooklyn, city of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said commissioner to report to me the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this first day  
[L.S.] of September in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

**REPORT OF COMMISSIONER\***

The commissioner made his report on January 15, 1909, recommending that the charges be dismissed.

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**Complaint of A Nuisance****EXAMINATION ORDERED OF AN ALLEGED NUISANCE AFFECTING RESIDENTS OF THE COUNTY OF RICHMOND**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

*To the State Commissioner of Health:*

A complaint having been made by residents of the county of Richmond, a copy of which is hereto annexed, that within the State of New Jersey and city of Bayonne, at Constable Hook in said city, there are now maintained and operated certain extensive plants, furnaces, smelters, ovens, and other appliances engaged in the manufacture of chemicals, the refining of oil, the roasting, reducing, smelting, manufacture, and production of sulphur, copper, ores, and other products, and that such manufacturing plants are constantly generating and causing to be discharged over the territory comprising Richmond county vast quantities of noisome and disagreeable smoke, fumes, effluvia, noxious and poisonous vapors and gases which injure or endanger the comfort, repose, health, or safety of a considerable number of persons, citizens of Richmond county.

I, therefore, require you to make an examination into the matters alleged in said complaint and into the questions affecting the security of life and health in the locality aforesaid in the county of Richmond, and to report the results thereof to me on or before the 21st day of December, 1908.

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\* The charges against the sheriff of Albany county were dismissed by Governor Hughes on June 21, 1909. See Public Papers of Governor Hughes for the year 1909.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this seven-  
[L.S.] teenth day of November in the year of our Lord  
one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

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### **Proceedings for the Removal of the President of the Borough of The Bronx of the City of New York**

Charges by commissioners of accounts of the city of New York,  
John Purroy Mitchel and Ernest Yale Gallaher, were laid before the  
Governor on November 18, 1908.

#### NOTICE AND SUMMONS.

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Louis F. Haffen,  
President of the Borough of The Bronx of the City of  
New York.*

TO LOUIS F. HAFFEN, *President of the Borough of The Bronx  
of the City of New York:*

You are hereby notified that charges have been preferred  
against you by John Purroy Mitchel and Ernest Yale Gallaher,  
commissioners of accounts of the city of New York,  
praying that you be removed by the Governor from the office  
of president of the borough of The Bronx of the city of  
New York.

A copy of such charges is herewith served upon and given  
to you.

I hereby fix the 30th day of November, 1908, at 12  
o'clock noon, as the date on or before which your answer to

said charges shall be filed with me; and you are further notified that on said 30th day of November, 1908, or on such later day or days as may be appointed by me, you will be afforded an opportunity of being heard in your defense.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Privy Seal of the State at the  
[L.S.] Capitol in the city of Albany this nineteenth day of November in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,

*Secretary to the Governor.*

Mr. Haffen made a reply to the charges on December 30, 1908.

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#### APPOINTMENT OF COMMISSIONER MACFARLANE

STATE OF NEW YORK — EXECUTIVE CHAMBER.

BEFORE THE GOVERNOR.

*In the Matter of Charges Preferred against Louis F. Haffen,  
President of the Borough of The Bronx of the City of  
New York.*

#### APPOINTMENT OF COMMISSIONER.

Charges having been filed with me on the 18th day of November, 1908, by John Purroy Mitchel and Ernest Yale Galaher, commissioners of accounts of the city of New York, against Louis F. Haffen, president of the borough of The Bronx of the city of New York, with a petition that he be removed from his office of president of the borough of The Bronx of the city of New York, and a copy thereof having been served upon said Louis F. Haffen, who has filed an answer to said charges,

NOW, THEREFORE, Pursuant to the statute in such case made and provided, I do hereby appoint Wallace Macfarlane, of



the city and county of New York, a commissioner to examine witnesses and take evidence as to the truth of said charges, and I hereby direct said commissioner to report to me the said evidence and his findings of the material facts deemed by him to be established in connection with said charges, together with his conclusions thereon.

GIVEN under my hand and the Privy Seal of the State  
at the Capitol in the city of Albany this fifteenth  
[L.S.] day of December in the year of our Lord one thousand nine hundred and eight.

(Signed) CHARLES E. HUGHES.

By the Governor:

ROBERT H. FULLER,  
*Secretary to the Governor.*

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#### REPORT OF COMMISSIONER\*

Mr. Macfarlane made his report on July 8, 1909, concluding it by saying that "the respondent has been guilty of misconduct which should subject him to removal."

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\* Governor Hughes heard Mr. Haffen in his defense and John Purroy Mitchel and Ernest Y. Gallaher in support of the charges on July 22, 1909.

Governor Hughes removed Mr. Haffen from office on August 28, 1909.

See Public Papers of Governor Hughes for the year 1909.

**Court of Inquiry in Relation to Col. George R. Dyer,  
12th Regiment, N. G., N. Y.**

A court of inquiry concerning the colonel of the 12th Regiment was ordered on September 20, 1907.

**OPINION OF THE COURT**

GENERAL HEADQUARTERS, STATE OF NEW YORK,  
ADJUTANT-GENERAL'S OFFICE,

Albany, January 8, 1908.

GENERAL ORDERS, }  
No. 3. }

The court of inquiry, of which Brig.-Gen. Lauren W. Pettebone, Fourth Brigade, is president, convened pursuant to special orders No. 151, Adjutant-General's office, September 20, 1907, at the request of Col. George R. Dyer, 12th Regiment, N. G., N. Y., to inquire into the nature of certain imputations against that officer, having considered the evidence in connection with the case has reported its findings, opinion and recommendations.

The opinion of the court is as follows:

"After careful scrutiny of the record and due consideration thereof it is the unanimous opinion of the court that the imputations made against Col. George R. Dyer are baseless; and that no further action is necessary in this matter in so far as Colonel Dyer is concerned."

"We have carefully considered the action of Maj. N. T. Robb, Maj. J. P. Benkard, Capt. W. Forbes Morgan, and Capt. H. S. Dudley in bringing the charges reflecting upon the character of Colonel Dyer, to the attention of that officer and the regimental board of officers. It was clearly their duty so to do. We find nothing in their conduct reflecting either upon their efficiency as officers or their standing as gentlemen."

The record of the proceedings of the court of inquiry in this case having been submitted to the Governor, the following are his orders thereon :

STATE OF NEW YORK — EXECUTIVE CHAMBER.

ALBANY, January 8, 1908.

I have carefully examined the testimony in this case in full. The findings, recommendations and opinion of the court are concurred in, and I consider no further action necessary.

(Signed) CHARLES E. HUGHES.

By command of the Governor,  
NELSON H. HENRY,  
*Adjutant-General.*

Official:

CHAUNCEY P. WILLIAMS,  
*Assistant Adjutant-General.*



**X**  
**COMMUTATIONS GRANTED AND APPLI**  
**CATIONS DENIED**



**X**  
**COMMUTATIONS GRANTED AND APPLICATIONS**  
**DENIED**

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STATE OF NEW YORK — EXECUTIVE CHAMBER.

April 13, 1909.

To the Legislature:

I have the honor to transmit herewith a statement of the commutations granted by me during the year 1908.

(Signed) CHARLES E. HUGHES.

**Commutations**

January 15. Martha A. Kelley. Sentenced May 28, 1907; county, Chemung; crime, petit larceny; term, one year; Chemung County Jail.

Commutated to seven months and nineteen days.

The prisoner was convicted of stealing a pocket-book containing \$3. During her imprisonment her health has become greatly impaired and it is not probable that she will live until the end of her term if kept in confinement. County Judge McCann, who sentenced her, and District Attorney Eogart, recommend that she be released.

March 4. James Miller. Sentenced February 26, 1902; county, Saratoga; crime, burglary, first degree; term, twelve years; Clinton Prison.

Commutated to six years and seven days, actual time.

Granted on the application of the Superintendent of State Prisons, who writes that through information voluntarily furnished by Miller he was enabled to detect and put an end to certain unlawful practices on the part of one of the prison officers, and he urges that a reward for such services ought to be granted and thus encourage other prisoners to do as Miller has done, thereby greatly benefiting the discipline of the prison.

March 13. Merritt Newkirk. Sentenced October 27, 1905; county, New York; crime, abduction; term, four years; Sing Sing Prison.

Commuted to two years, four months and eighteen days, actual time.

This case was referred by me to the Parole Board, which has made its report pursuant to the statute, recommending that the sentence be commuted to the time now served.

Newkirk was nineteen years old when received at the prison, his previous character was good, his conduct during confinement has been excellent, he has now served all but about seven months of the sentence, less the usual commutation, and immediate employment is offered him.

March 13. Antonio Zirpoli. Sentenced October 20, 1902; county, New York; crime, manslaughter, first degree; term, sixteen years; Sing Sing Prison.

Commuted to five years, four months and twenty-four days, actual time.

The crime was committed by the prisoner in defending his son from a violent assault, and although not legally justifiable was not of great atrocity. Zirpoli had no previous criminal history, but was an industrious, respectable, law-abiding citizen. He is eighty-two years of age, is in the invalid company, is quite feeble, and it is not probable that he will live out the term of his sentence.

He has now served the legal equivalent of a term of eight years, a rather severe punishment under all the circumstances, and the Parole Board, after a careful investigation of the case, has recommended that his application for clemency be granted.

March 13. Edward S. Baker. Sentenced September 18, 1907; county, New York; crime, grand larceny, second degree; term, one year; New York Penitentiary.

Commuted to five months and twenty-four days.

The prisoner was always of good character except that he indulged too freely in the use of intoxicating liquor, a habit which was the immediate cause of his crime. The amount



stolen by him was not large, and a considerable portion of it was voluntarily returned to the owner within a few hours. It was Baker's first criminal act, and, after considering all the circumstances, I have reached the conclusion that he has suffered for it all the punishment that justice requires.

The complainant has given very cordial support to the application for clemency.

June 25. John W. Wooten. Sentenced July 10, 1905; county, New York; crime, grand larceny, first degree; minimum term, three years; maximum term, six years and ten months; Sing Sing Prison.

Commutated to two years, six months and twenty-six days, actual time.

Very earnestly recommended by the Superintendent of State Prisons and granted in consideration of important services rendered by the prisoner in bringing to light the habitual gross malfeasance of a prominent prison official.

July 6. Joseph Monohan. Sentenced June 13, 1905; county, Cattaraugus; crime, perjury; term, five years and eight months; Auburn Prison.

Commutated to an indeterminate sentence of three years and twenty-three days minimum, and three years, eleven months and twenty days maximum.

This was Monohan's first offense and there is abundant reason to believe that it was not a purely voluntary act on his part, but that he was prevailed upon to commit it by persons who exercised a strong influence over him. Judge Thrasher who presided at the trial, and District Attorney Cole who conducted the prosecution, are of the opinion that he has been sufficiently punished, and on that ground recommend that his application be granted.

I have also received a report from the Parole Board favoring clemency, and after carefully considering the matter I have concluded to change the sentence from a definite to an indeterminate one, having for its minimum the time already served and for its maximum the sentence imposed by the court, less what could be earned by good conduct. This will

enable Monohan to bring the case before the Board on an application for a parole.

July 6. Domenico Massinino. Sentenced April 12, 1904; county, New York; crime, rape, second degree; term, seven years; Sing Sing Prison.

Commuted to four years, two months and twenty days, actual time.

The Parole Board after carefully investigating the case recommends it as a proper one for clemency. Except for this offense the prisoner has always borne a good character, and while technically, under the statute, the crime was committed, the circumstances of the common-law offense were not present and the sentence was very severe. He has now served a term of six years, allowing deduction for good conduct, and I think has fully expiated his offense.

July 6. Alexander Stewart. Sentenced December 14, 1900; county, New York; crime, manslaughter, first degree; term, twenty years; Sing Sing Prison.

Commuted to seven years, six months and twenty-three days, actual time, on condition that he proceed forthwith to Freeville, N. Y., and there become and remain a member of the George Junior Republic, subject to all the rules and regulations, and to the jurisdiction and control of those having management thereof, until duly discharged according to said rules. And if he fail so to do, or if he so conduct himself as in the opinion of the trustees or a majority of them to render himself an undesirable member of said Republic, and his membership or continued presence detrimental to the interests thereof, this commutation shall thereupon become void and the said Stewart shall be returned to Auburn Prison and be required to serve out the portion of his sentence now remaining unserved.

The Parole Board in reporting upon this case states the facts to be that Stewart was convicted of manslaughter, first degree, in December, 1900, and was sentenced to twenty years' imprisonment in Sing Sing. When received at the prison he was but fourteen years of age. In February, 1905, Governor

Higgins pardoned him upon condition "that he be placed in care of the George Junior Republic Association subject to return to the prison if his conduct was not satisfactory to them. After having been in the Republic about one year he was permitted to go to New York city for the purpose of visiting his sister, and refused to return, whereupon he was taken back. This and other similar reasons prompted the Republic officials to return him to prison, and he was received again in Sing Sing, March 6, 1906."

The president of the George Junior Republic Association has taken a deep interest in the case and desires very much to have Stewart recommitted to that institution, being confident that he will give no further trouble and that the influences there will be of great benefit to him, and after fully considering the matter I have reached the conclusion that the application ought to be granted. Stewart's youth at the time of the crime, his good record in prison, the fact that he has suffered a severe punishment, and the advantages likely to be gained by him if released now upon the conditions above stated, fully warrant the commutation.

July 6. William H. Parker. Sentenced May 20, 1892, to be executed; county, Niagara; crime, murder, first degree; commuted March 2, 1893, to imprisonment for life; Auburn Prison.

Commutated to an indeterminate sentence, minimum fifteen years and four months, maximum life.

This prisoner's sentence was commuted to imprisonment for life on account of the serious doubt which existed as to his guilt. (See Governor Flower's Public Papers for 1893, p. 468.) Since then, by additional proof, this doubt, to say the least, is much strengthened. The prisoner is a negro. Before his conviction he appears to have been an industrious and peaceable man and had never been accused of crime of any kind. He has now been in prison for over fifteen years, equivalent with commutation under the statute to a term of twenty-five years, during all of which his conduct has been perfect. When received at the prison he could neither read nor write; he can now do both well, and he has shown remarkable proficiency in acquiring knowledge.

The Parole Board has recommended clemency for him, and in view of all the circumstances I have deemed it just to modify the sentence so that a parole may be granted if the Board think proper.

July 7. Isaac White. Sentenced January 16, 1895, to be executed; county, Franklin; crime, murder, first degree; commuted February 25, 1895, to imprisonment for life; Clinton Prison.

Commuted to an indeterminate sentence, minimum thirteen years, four months and thirteen days, maximum life.

Commutation from the death penalty to imprisonment for life was recommended by Judge Kellogg who sentenced the prisoner, and by District Attorney Paddock who prosecuted him, and was granted on account of the unsatisfactory character of the evidence to show the deliberation and premeditation necessary to constitute murder in the first degree. Further clemency is now asked in consideration of White's exemplary conduct and of the great value of the services rendered by him to the authorities during his imprisonment. It also appears that on several occasions he has risked his life in rescuing prison officers from assaults by convicts, and it is strongly urged by the Superintendent of State Prisons that White is justly entitled to a substantial reward therefor.

After carefully considering all the facts I have concluded to commute the sentence so as to bring the case within the jurisdiction of the Parole Board.

August 17. Joseph P. Sharpe. Sentenced March 1, 1902; county, Monroe; crime, robbery; term, thirteen years; Auburn Prison.

Commuted to six years, five months and thirteen days, actual time.

Sharpe's two associates, who appear to have been equally guilty with him, received each a sentence to imprisonment for nine years, and both are now at liberty, a special commutation having been granted to one of them about a year ago, and the other having served out his sentence. Sharpe has now been imprisoned for a term equivalent, with the usual

allowance for good behavior, to a term of about ten years, and clemency is recommended by Judge Sutherland who sentenced the three defendants, by District Attorney Warren who prosecuted them, and by nine of the trial jury — the others being dead or removed — on the ground that Sharpe has been sufficiently punished.

November 18. Cyrus B. Wagar. Sentenced May 13, 1904; county, Monroe; crime, abortion; minimum term, two years; maximum term, four years; Auburn Prison.

Commutated to six months and twenty-eight days from April 22, 1908.

An appeal was taken in this case to the Court of Appeals. In affirming the judgment the court said:

"While the evidence adduced on the trial to establish the guilt of the defendant is far from satisfactory, we cannot declare as a matter of law that it was insufficient to warrant the submission of the case to the jury. Under the limited power of review vested in us by the Constitution we must, therefore, affirm the judgment."

I am advised that on account of the unsatisfactoriness of the evidence, it is the opinion of the judges of the Court of Appeals that the case is a proper one for the exercise of executive clemency. My examination of the record leads me to the same conclusion. I, therefore, commute the sentence to the actual time served.

November 19. Bernard J. King. Sentenced June 22, 1905; county, New York; crime, forgery; term, six years; Sing Sing Prison.

Commutated to three years, four months and twenty-eight days, actual time.

With deduction for good conduct the prisoner's term would expire on the twenty-second day of August next, so that he has now served all but nine months of his sentence, which seems to have been quite a severe one. The forgery was of a check for a small amount, and it is not unlikely that a lighter sentence might have been imposed had he pleaded guilty when arraigned, as he intended to do, but was dis-

suaded from doing by his counsel. Clemency is recommended by the assistant district attorney who had charge of the case, by the complainants, and by the Parole Board.

It is also certified by Hon. Andrew S. Draper, Commissioner of Education, that King has been very helpful in promoting the school work which the Education Department has been supervising at Sing Sing.

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### **Application for a Reprieve of Chester Gillette.**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, March 29, 1908.

#### *In the Matter of the Application for a Reprieve of Chester Gillette.*

On December 4, 1906, Chester Gillette was convicted of the murder of Grace Brown on July 11th of that year. On February 18, 1908, the Court of Appeals unanimously affirmed the judgment and he was then sentenced to suffer the death penalty during the week beginning March 30th. Upon application for executive clemency, and after a careful examination of the evidence, I reached the conclusion that there was no ground upon which I should be justified in interfering with the execution of the judgment of the court.

A reprieve is now asked in order that proceedings may be taken to obtain a new trial upon the ground of alleged newly-discovered evidence.

It is the privilege and the duty of the executive to grant a reprieve whenever the interests of justice require it. But where the petition is based upon the claim that evidence has been newly discovered and the character of the evidence is clearly disclosed, the executive should not interfere with the sentence unless he is satisfied that the case is one in which the application for a new trial should be made and heard. Whatever his power, the Governor has no right to grant reprieves unless he can assign good cause and if the adminis-

tration of the law is to be respected, petitions made at the eleventh hour must show merit. I find none in the present case.

A portion of the alleged newly-discovered evidence is to the effect that Gillette had torn the ribbon band from his straw hat in September, 1905, and had given it to his companion. The object is to rebut any inference from the absence of the interior lining of the prisoner's hat, when the latter was found floating on Big Moose lake, that it had been taken out to avoid identification. This, however, is of no importance. By his conduct both before and after the fatal event, it is conclusively established that he did seek to avoid identification, and the question whether or not he removed the lining of his hat for that purpose is not of much moment.

The other evidence before me, so far as it is at all credible, is to the effect that Grace Brown during the year preceding her death had "spasms" or "spells" from time to time in which she became unconscious. These are described by those who knew her in the factory at Cortland. It is testified that this was a matter of common knowledge among the girls who worked with Grace Brown. There were seventy-five girls on the floor where she worked and two of the witnesses say that they believe that all these girls saw Grace Brown have "these spasms some of the times." It is evident that the facts as to the physical condition of Grace Brown and as to these alleged manifestations, assuming the truth of the present statements, were easily procurable and that any inferences to be drawn therefrom have at all times been available.

The theory of the defense at the trial was that Grace Brown committed suicide.

The theory now advanced is that Grace Brown was an epileptic subject and that if she had an epileptic seizure in the boat upon the fatal day and if during the attack she sustained the various injuries found and fell into the water, the condition of her body as disclosed by the autopsy might be accounted for.

But this theory is wholly untenable. It is conclusively disposed of by the statements, conduct, and testimony of Chester

Gillette himself. If it be assumed that there was such a seizure and fall as might be deemed to account for the condition of the body, it is inconceivable that they should have escaped the observation of the prisoner; and if he had observed anything of the sort it is inconceivable that he should have made the statements and have given the testimony which appear in the record of the trial.

No view of the unhappy event is adequate which fails to take account of the proved facts — the events preceding Grace Brown's death, the condition of the body and the character of its injuries, the overturned boat with Grace Brown's cape on top of it, the disposition of the tennis racket, the conduct of the prisoner previous to the tragedy and subsequently, and the manner in which he sought to explain it when defending his life. If reason is to be our guide and all the established facts are taken into consideration, there is no escape from the conclusion that a brutal murder was committed and that the conviction was just.

After examining the evidence now presented, I find nothing in it which in any way can affect this conclusion, or which furnishes any justification for executive action.

(Signed) CHARLES E. HUGHES.

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### **Regarding the Case of William S. Brasch, Under Sentence of Death — Application for Executive Action Denied**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, N. Y., November 24, 1908.

In the case of William S. Brasch, confined at Auburn Prison under sentence of death to be executed during the week beginning November 23, 1908, application was made on behalf of the prisoner on November 19, 1908, for executive action, it being claimed that the prisoner is insane. In order to determine the merit of the application I requested Albert W. Ferris, M. D., president of the State Commission in Lunacy;



William L. Russell, M. D., Medical Inspector of the State Hospitals for the Insane; Richard H. Hutchings, M. D., medical superintendent of the St. Lawrence State Hospital, and Adolf Meyer, M. D., director of the Psychiatric Institute of the State Hospitals for the Insane, to make examination of the prisoner's mental condition. They have reported to me as follows:

"TO HIS EXCELLENCY CHARLES EVANS HUGHES, *Governor of the State of New York:*

"SIR.—In accordance with your request we have made a thorough examination of William S. Brasch, now confined in Auburn Prison under sentence of death, until we are satisfied of his mental condition; and we respectfully report that in our opinion the said Brasch is of sound mind and responsible for his acts, and that we discovered nothing in his mental condition that would constitute a reason for interference with the execution of the judgment.

"ALBERT WARREN FERRIS,

"WILLIAM L. RUSSELL,

"RICHARD H. HUTCHINGS,

"ADOLF MEYER.

"Dated, Albany, N. Y., November 24, 1908."

The application is denied.

(Signed)

CHARLES E. HUGHES.

11. 2012

**XI**  
**MISCELLANEOUS**



## XI

### MISCELLANEOUS

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#### **Designating a Committee to Investigate Speculation in Securities and Commodities**

Albany, December 14, 1908.

TO MESSRS. HORACE WHITE, CHARLES A. SCHIEREN, DAVID LEVENTRITT, CLARK WILLIAMS, JOHN B. CLARK, WIL-  
LARD V. KING, SAMUEL H. ORDWAY, EDWARD D. PAGE,  
and CHARLES SPRAGUE SMITH:

GENTLEMEN.—At the last session of the Legislature I recommended that provision should be made for suitable inquiry into the facts relating to speculation in securities and commodities, with the view of ascertaining the manner in which illegitimate transactions might be prevented and legitimate business safeguarded. As I stated in accepting renomination, I had in mind, in making this recommendation, such an expert inquiry as was made into banking conditions, the result of which was the passage of highly beneficial measures. In this Commonwealth, the vast commercial and financial transactions of which represent the activities of the entire country, it is of the utmost importance that legislation affecting business and exchange should be the result of deliberate study, and that we should neither threaten business stability by ill-considered measures, nor on the other hand invite agitation or impair confidence by ignoring abuses and by failing to provide suitable correction.

It is with this view that I request you to act as a committee for the purpose of collating facts, receiving suggestions, and making such recommendations as may seem to you fitting with regard to the following question:

What changes, if any, are advisable in the laws of the State bearing upon speculation in securities and commodities; or relating to the protection of investors; or with regard to the instrumentalities and organizations used in dealings in securities and commodities which are the subject of speculation?

It is not my intention to limit you in the consideration of any phase of the matters submitted, and I am confident that your carefully formed opinions, being those of men known for their interest in public questions and their acquaintance with affairs, and accredited to the community by high reputation, will be of the greatest value.

I must ask this public service without offer of compensation or indemnity for expense, as I have no authority to subject the State to any obligation in connection with your appointment. But I know that your generous action in serving the community will be highly appreciated and will afford another and most welcome illustration of the public spirit of our citizens.

I shall be glad to receive your report at as early a date as you may find practicable. I have the honor to remain,

Very respectfully yours,

(Signed)

CHARLES E. HUGHES.

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### Concerning Life Insurance Companies

*Letter to the Secretary of the Chamber of Commerce of New York in Relation to a Request for the Appointment of a Commission to Investigate the Conditions Surrounding the Life Insurance Companies of the State.*

Governor Hughes sent the following reply to a resolution adopted by the Chamber of Commerce of the State of New York on December 3, 1908, asking for the appointment of a commission of five citizens to investigate the conditions surrounding the life insurance companies of the State, and report to the incoming Legislature not later than January 15th:

Albany, December 7, 1908.

MR. SERENO S. PRATT, *Secretary Chamber of Commerce, New York City:*

DEAR SIR.—I have the honor to acknowledge the receipt of your letter under date of the 4th instant, inclosing copy of preamble and resolution adopted by the Chamber of Commerce, requesting me to appoint a commission to investigate the conditions surrounding the life insurance companies of this State.

While I should be glad to comply with any request of your honorable body, it does not seem to me that it is advisable to appoint such a commission at the present time. We have recently had an investigation of life insurance companies, and several provisions of the Insurance Law to which reference is made in the resolution did not become effective until January 1, 1907. Thus far, the report of the experience of one year only under these provisions of the amended law is available. My attitude toward the matter was thus stated in my speech accepting a renomination for the office of Governor:

“There cannot be too great care in protecting the interests of the policyholders and I desire that nothing should be left undone to procure the faithful enforcement of the laws which have been enacted for their protection. Through the operation of these laws important economies have been secured and conservative management has been promoted. If experience shows that in any particular these are too drastic, amendment should be made. I vetoed a bill passed at the last session which would have modified restrictions upon expenditures, because it was not a conservative measure such as it was well known I did not view with disfavor, but would have opened the door to extravagance and facilitated a return to old conditions. I have but one desire in this matter; and that is to conserve and promote the business of life insurance, than which there is none more important, and adequately to protect the interests of the policyholders, from which those of the companies and agents cannot properly be divorced.”

This expresses my position.

If your honorable body, or others interested in the matter, desire to suggest any particular amendment of the law, I shall be very glad indeed to give it the most careful consideration; and if in the course of the coming legislative session any bill shall come before me involving any amendment of the law, it will be carefully examined. But while I shall be glad to study any specific proposal which may be presented, I do not think the time has arrived for the appointment of a commission, as suggested by the resolution.

With assurance of my respect, I have the honor to remain,

Very respectfully yours,

(Signed) CHARLES E. HUGHES.

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**Letter to William Schuyler Jackson, Attorney-General,  
in Relation to Mayor McClellan's Title to Office**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Albany, February 14, 1908.

Governor Hughes to-day sent to the Attorney-General the following letter:

"HON. WILLIAM SCHUYLER JACKSON, *Attorney-General, Albany, N. Y.*:

"SIR.—Replying to your application under date of the 5th instant for the appointment of an extraordinary Trial Term of the Supreme Court in the county of New York, and for the designation of a justice to hold such term, for the purpose of making provision for the trial of the action in the nature of *quo warranto* brought in the name of the People of the State of New York against George B. McClellan, I have the honor to say:

"I have consulted with the presiding justice of the Appellate Division of the First Department and am informed that there are regularly designated Trial Terms which have no justices assigned to them at present, and that the action referred to can be tried at one of these terms to which it has been and



is intended that a Supreme Court justice from outside New York city shall be assigned.

"It is important that the trial should be had promptly and that the controversy to which you refer should be settled with the least possible delay. It appears that there is adequate provision for this purpose without the appointment of an extraordinary term, and I understand that the trial can proceed as soon as your appeal from the order for a struck jury has been decided.

"I remain, very respectfully yours,

"(Signed) CHARLES E. HUGHES."

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### **Approval of a Site for the New York State Training School for Boys**

STATE OF NEW YORK — EXECUTIVE CHAMBER.

Pursuant to the provisions of section 1 of chapter 268, Laws of 1908, I hereby approve as a site for the New York State Training School for Boys the lands selected by the commission, appointed pursuant to the provisions of chapter 665 of the Laws of 1907, to select a site for the New York State Training School for Boys, and submitted to me by the said commission in a communication dated September 22, 1908, together with a certified copy of a resolution adopted by the State Board of Charities, September 19, 1908, pursuant to the provisions of section 1 of chapter 268, Laws of 1908, approving the said site.

(Signed) CHARLES E. HUGHES,  
*Governor of the State of New York.*

Albany, N. Y., September 22, 1908.



## APPENDIX.

## APPENDIX.

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### REPORT OF SPECIAL COMMISSION ON BANKS

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#### Message to the Legislature.

STATE OF NEW YORK,

EXECUTIVE CHAMBER,

ALBANY, January 1, 1908.

*To the Legislature:*

I transmit to you herewith a copy of a letter addressed by me to Messrs. A. B. Hepburn, Edwin S. Marston, Edward W. Sheldon, Algernon S. Frissell, Stephen Baker and Andrew Mills requesting them to collate facts, receive suggestions and express their views with reference to advisable changes in the law of the State relating to the incorporation, conduct and supervision of banks and trust companies, and also the report made by them, referred to in my message of this date.

CHARLES E. HUGHES.

## REPORT OF THE COMMISSION.

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**Submitted to Governor Hughes December 15, 1907.**

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HON. CHARLES E. HUGHES, *Governor of the State of New York, Albany, N. Y.:*

DEAR SIR.—In your letter dated November 13th last, which we had the honor to receive in due course, you request us as “men having expert familiarity with” the conduct and management of banks and trust companies, “to act as a Committee for the purpose of collating facts, receiving suggestions and expressing views which, after due reflection, you may entertain with reference to the following question: ‘What, if any, changes are advisable in the law of the State relating to the incorporation, conduct and supervision of banks and trust companies.’”

### SOURCES OF INFORMATION.

In view of the brief time within which you desire us to report, as well as our want of official power, we assume that nothing in the nature of the taking of testimony was intended. We have, however, collated such pertinent facts as were accessible from public records, which are appended hereto; we have had the advantage of familiarity with current events, and have been furnished information by the State Banking Department, the Comptroller of the Currency, the Attorney-General and the Executive Committee of the New York Clearing House; we have thus been given an inside view of the management, or rather the mismanagement, of the institutions which have recently been involved in more or less difficulty. Superintendent Williams has joined in our labors and rendered us every assistance in his power.

## ORGANIZATION.

Respecting the organization of banks and trust companies, existing laws seem to cover the requirements fairly, except as to the veto power of the Banking Department. The establishment of a bank or trust company, or of a branch of any existing bank or trust company, or the purchase of the control of one banking institution by another, should be subject to the approval of the Superintendent.

It should be within his province to prevent the organization of such institutions by improper men, or their establishment in localities where business conditions do not reasonably assure their success.

The law says (section 40), that "five or more persons may become a bank" by complying with the provisions of the act, and the only responsibility, seemingly, devolving upon the Superintendent in that connection, is to see that the capital is paid in in cash (sections 12, 13, 49).

In the case of the organization of a trust company, the Superintendent, before issuing a certificate, must ascertain whether "the general fitness for the discharge of the duties appertaining to such a trust, of the persons named in the certificate, is such as to command the confidence of the community in which such trust company is proposed to be located, and whether the public convenience and advantage will be promoted by such establishment" (section 153).

The law should be equally restrictive and explicit as to the organization of banks and the establishment of bank and trust company branches, and the duties, powers and responsibilities of the Superintendent should be clearly defined.

It has sometimes happened that banking institutions have been organized for no better purpose than to give employment to the parties bringing about the organization, without regard to the needs of the locality. Because of the very high price that the stock of successful banks and trust companies has commanded, institutions have been organized by promoters whose apparent ultimate object was to realize a profit by selling the same after organization was completed.

Branch banking, in its legitimate exercise, is worthy of

commendation. Where a strong, central institution seeks to utilize its funds by establishing a branch in some locality where there are commercial interests and business needs to be served, it is a wise exercise of banking privilege and of mutual advantage to the bank establishing the branch and to the locality where the same is located; and in a city like New York, local needs may perhaps be better supplied by branches than by a separately organized institution. On the contrary, however, where a bank seeks to establish branches in various localities, mainly for the purpose of securing an aggregate of deposits all under the control of the parent bank, to be used in furthering the schemes of the parties controlling the same, it becomes an element of danger to the banking and business community.

Trust companies in the city of New York are not allowed to organize with a less capital than \$500,000. We think that banks should not hereafter be permitted to have branches unless they possess a capital of \$500,000; and we think that both banks and trust companies should be required to furnish an additional \$100,000 capital for each branch opened.

Where a group of promoters unite to buy the control of a number of separately organized institutions and utilize the resources these institutions command, by exchanging loans and deposits, a dangerous element is likewise introduced; the law should provide means to prevent or eliminate such conditions. The force of these remarks is illustrated by recent developments.

It is, therefore, in our opinion, incumbent upon the State to empower the Superintendent of Banks to scrutinize very closely not only all applications for the organization of new banking institutions, but also the projects for the establishment of branches of institutions already organized, and the circumstances under which control of other institutions is obtained or mergers of two or more are contemplated. Moreover, he should have the same power to scrutinize the enlargement of the capital stock and its actual payment in cash, as obtains in the case of the original capital.

Where people essay to organize a banking institution, it is

presumed they have money which they wish to invest in the banking business, and unless the Superintendent, by examination, is satisfied of this fact, he should, in our judgment, withhold and refuse the charter or privilege asked. The onus of clearly establishing the financial ability and integrity of purpose of the promoters, as well as the necessity or desirability of additional banking privileges at the place in question, clearly rests upon the parties making the application.

In saying this, we desire to specifically disclaim any opposition to the organization of small banks. Their existence is essential to the proper service of the public; they serve a class of business to which the larger institutions, as a rule, do not cater, except perhaps through branches, and wherever there is a proper demand for them their creation should be encouraged. It is only the organization of banks by people without banking capital, or without a proper motive for seeking such organization, or by people who, from want of good judgment, seek to establish an institution where, even with good management, it could not reasonably hope to succeed, that should be discouraged.

#### CONDUCT AND SUPERVISION.

The Superintendent of Banks has supervision over all monied corporations chartered under the laws of the State, known as banks of discount and deposit, trust companies, savings banks, safe deposit companies, mortgage loan or investment companies, and building loan associations. The importance of the office is best expressed in figures. The total resources of all corporations of the three classes first named, on January 1, 1907, were \$3,398,182,274.

In our judgment the relation between the Superintendent and the corporations under his supervision is not sufficiently direct and intimate, nor is his power to control adequate.

The merits of a well managed supervision are evidenced usually only by the general success of the institutions under control. The good which the supervising officer accomplishes is of a negative character; that is to say, he corrects in time abuses which might otherwise have led to loss, and no wrong-



doing having come to the public knowledge, the Superintendent fails to receive special credit for very much of the good which his office accomplishes.

As long as banking institutions are successful, keep faith with the public and meet their obligations, there is, from the governmental standpoint, little ground for criticism. When, however, through mismanagement or misfortune, their financial strength is impaired or menaced, their ability to serve the public lessened, and possible or probable loss impends, it is then that the advantage of good supervision is realized; by enforcing the law and compelling the maintenance of conservative methods, it protects depositors from loss and the public generally from the disturbance in business affairs which usually follows the failure of any banking institution. But unless the Superintendent is clothed with adequate direct power to enforce the law by closing a delinquent institution, the efficiency of the law is obviously lessened. Under existing law he may criticise objectionable practices when they come to his knowledge, and report continued delinquencies to the Attorney-General. His criticism is hence in large measure academic and may be given scant consideration by delinquents. The authority to close offending institutions and appoint receivers therefor should be vested in the Superintendent for this reason and others to be discussed presently. Were he clothed with the power to "direct the discontinuance of unsafe practices," no institution would dare continue the same after having been admonished by him.

#### LOANS AND INVESTMENTS.

The chief business of banking institutions is the making of loans or investing the funds in their possession, and the State undertakes in general terms to regulate the manner in which this is to be done. Prescriptions too specific in their nature would interfere with legitimate transactions, and it is hence judicious to leave the regulation of details to the officers and managers, subject to the scrutiny of examining and supervisory officials.

The directors are dependent for their knowledge of a cor-

poration's affairs upon the reports made to them by their officers.

It should be made compulsory that all loans, discounts and purchases of commercial paper shall be read to the directors or submitted in written form, at the meeting next succeeding the making of the same, and intentional concealment of the making of such loans, discounts or purchases should be made a misdemeanor. Failure to submit the making of such loans, discounts or purchases at such meeting should be *prima facie* evidence of concealment. All loans or other transactions of a like character should be fully reported to the directors. Such information is furnished in properly managed institutions, and recent events indicate that a statutory provision is requisite to bring about such a practice in all monied institutions.

A deposit of funds of any monied corporation with any other similar institution, through which credit is given to or advantage received by the officers or directors of the depositing institution, directly or indirectly, should be a misdemeanor upon the part of the officers of the bank responsible for the making or receiving of such deposit.

This practice is very common among bank promoters. Bank "A" deposits with Bank "B," say, \$250,000 at 2 per cent. interest, with the agreement by "B" to loan the officers, or some one they may name, \$200,000 or \$250,000 at current rates of interest. In that way the managers of a bank use indirectly its funds in furthering their schemes. In this way a group of men are enabled to obtain control of a chain of banks. Of course no reputable bank would be a party to such a transaction, and the Penal Code should prevent such a practice on the part of any.

And in this connection, we think the law limiting loans is too liberal and we recommend that the amount which any institution may loan upon collateral to any one interest be reduced from 40 per cent. to 25 per cent.

Two very important classes of loans have been brought prominently to the attention of the public, and should be considered at some length. We refer to loans upon bank (or trust company) shares, and upon "underwritings."

## BANK STOCK AS COLLATERAL.

A method of a certain class of promoters, well illustrated by the recent developments in certain embarrassed financial institutions, is to buy stock of a bank or trust company, and by using that as collateral, borrow money with which to buy stock of another banking institution. By repeating this process and by claiming the indulgence due a stockholder in the matter of extending credit in other directions, it is possible for adroit and unscrupulous men to acquire the nominal ownership of a very considerable amount of stock in a number of institutions, by the investment of a comparatively small amount of capital. The object of such a procedure is to obtain a standing with such institutions, which will enable the promoters to utilize their credit and obtain funds to carry on their various enterprises.

This is such an old and oft-repeated adventure, that it naturally suggests the propriety of forbidding such loans by law. Banks and trust companies are already prohibited (by section 25, par. 5) from making loans upon their own stock. It has been urged that an extension of the prohibition, so as to include the stock of other banks and trust companies, would tend to protect the community against such adventurers.

The capital stock of all the banks and trust companies doing business in the State of New York amounts, in round numbers, to \$263,700,000; the market value thereof is several times larger. It would be clearly an invidious and unjust discrimination against banking investments to prohibit the use of such stock as collateral for loans.

We think, however, that no bank or trust company should be permitted to loan upon the capital stock of any monied corporation an amount in the aggregate exceeding 10 per cent. of the capital of the corporation whose stock is offered as collateral; nor should any bank or trust company make any loan upon the capital stock of any monied corporation, which has not been organized and actually engaged in business for a period of at least six months; nor upon the shares of stock, in whole or in part, of any monied corporation that has increased its capital stock within six months prior to the making of such loan.

Such a law would make it difficult, if not impossible, for a group of men to buy the control of bank after bank, using the stock of the last purchase to collateral a loan with which to buy the new. It would also prevent or discourage the organization of banking institutions by people who have little or no means of their own.

#### UNDERWRITINGS.

Experience has shown that unliquidated claims and the securities of properties in process of development or construction, even though protected by underwriting agreements, are unsafe and undesirable collateral.

Promotion, aided by syndicate and underwriting agreements, is entirely legitimate and probably indispensable, in view of the magnitude of many modern undertakings. It is easy to recall important works beyond the means of any single interest and involving greater risk than any one interest could prudently assume. Such responsibilities may with propriety be undertaken by individuals or private banking houses, but an incorporated bank, or a trust company assuming to discharge trusts of the highest fiduciary nature, has no right to be engaged, through the instrumentality of a syndicate or underwriting agreement, in the construction of trolley lines, power plants or other enterprises of like character.

The securities of such undertakings have no market. Their real value can only be tested by the earning capacity of the enterprises after completion. Underwriting agreements are frequently participated in by people who have no idea of furnishing funds for the enterprise, but expect the bank or trust company to carry their obligation in the form of a loan until the property is completed and the securities sold, and thus realize a profit without having incurred any responsibility other than the lending of their names in the meantime.

It has been suggested that banks and trust companies be prohibited by law from joining syndicates or loaning upon syndicate enterprises and underwriting agreements. It may be well to forbid these institutions from becoming members of syndicates of the ordinary promotion class, but a positive prohibition against all syndicates and underwritings would prove

detrimental to legitimate enterprises. Thus, when the Federal Government was compelled to borrow money after the crisis of 1893, its bond issue would have failed but for the underwriting thereof by the banks and trust companies of New York city. In the present crisis the necessities of the city of New York were similarly cared for. There can be no objection to such participations, or to the loaning to customers who may be members of such syndicates.

The great railway systems of the country have recently offered their securities to the public in great volume, and in order to refund their short-time notes presently maturing, they must do so again. Some banking house, as syndicate managers, must negotiate for the same and in turn put themselves in position to complete the purchase by a syndicate or underwriting agreement—that is, they invite others to participate with them in the purchase for stated amounts. The syndicate managers have the right to sell the whole issue if they can, but failing this, the underwriters must take the securities and pay for the same up to the amount of their underwriting.

There are no better investments available than those offered by a great railway system, and there would seem to be no objection to the purchase of such securities in the manner described. The criticism lies against the quality, rather than the nature of the transaction.

We think it wise to amend section 25 of the Banking Law by adding a new subdivision 1-a:

“(a) No bank or trust company shall make any loan or advance to an amount in excess of 20 per cent. of the capital, surplus and undivided profits of the bank or trust company making such loan, the repayment of which is undertaken severally, but not jointly, by two or more individuals, corporations, firms or other parties.”

That will prevent any one institution from loaning more than 20 per cent. of its capital, surplus and profits in the aggregate, upon any underwritten securities or syndicate undertaking. Recent disclosures show that frequently the entire ad-

vance of funds desired in the undertaking was made by one institution.

We think the above limitation would have prevented most, if not all, of the syndicate loans which recently brought trouble to several institutions in this city.

We also think it well to enact that

“No bank or trust company shall make any loan or advance where such bank or trust company is liable directly, indirectly or contingently, for the repayment of such loan or advance in whole or in part.”

The foregoing is intended to restrict a loan upon syndicate or other obligations where the bank or trust company making the loan is at the same time a participant as an underwriter.

This is as far as we think it wise to go in recommending positive enactments.

The obligations of the United States, of the State of New York and of the cities of the State of New York should be excepted from the above.

The correction of the evil involved in this class of transactions can, in our opinion, be best accomplished by responsible, authoritative and efficient supervision; and to render supervision effective, specific power to direct the discontinuance of unsafe practices should be given.

#### RESERVES.

The subject of reserves is properly regarded as of vital importance in the conduct of banking business.

Primarily, the reserve keeps the bank in condition to respond to demands made upon it by its depositors; secondarily, the reserve requirement tends to prevent undue, and hence also injudicious, expansion of credits. It is when a bank's obligations are materially increased without a corresponding enlargement of reserves, that difficulties are likely to ensue. Hence the great value of the restraining influence of reserve laws.

When the reserve requirements of the National Bank Act were being determined in 1864, leading conservative bankers

were asked to fix percentage ratios, which a well-managed bank would endeavor to maintain—which, in other words, it would be as likely to be “over” as “under;” and it was the consensus of opinion of the bankers that fixed the rates which now obtain with respect to institutions operating under the Federal law.

National banks in central reserve cities, of which there are three—New York, Chicago and St. Louis—are required to keep a cash-in-bank reserve equal to 25 per cent. of their deposits; banks in ordinary or local reserve cities, of which there are two in this State—Brooklyn and Albany—are required to keep 25 per cent. reserve—12½ per cent. cash-in-bank and 12½ per cent. with an approved National bank correspondent in some central reserve city. All other National banks are required to keep 15 per cent. reserve, two-fifths thereof or 6 per cent. of the deposits must be cash-in-bank, and 9 per cent. may be with an approved reserve agent in any reserve or central reserve city.

State banks in a city of 800,000 population or more, are required to keep 15 per cent. reserve; those elsewhere in the State are required to keep 10 per cent. reserve (section 44, par. 1). In each case one-half must be cash in their possession, in lawful money of the United States; the other half may be kept on deposit with any bank or trust company having a capital of at least \$200,000 and approved by the Superintendent of Banks (section 44, par. 2). Under this law a State bank in the city of New York is required to keep only 7½ per cent. cash-in-bank; the remaining 7½ per cent. may be kept with an approved agent at any other point within the State. In practice, they maintain at least 15 per cent. cash reserve and most of them hold 25 per cent.

Trust companies located in a city of 800,000 population or more, are required to maintain a reserve of 15 per cent. against their aggregate deposits, all of which may be, and at least 5 per cent. of which must be, cash-on-hand; 5 per cent. may be kept in United States, State or municipal bonds of New York State; and the remainder may be kept with other banks or trust companies in the State, approved by the Superintendent of Banks as reserve agents. Trust companies doing

business elsewhere in the State are required to hold 10 per cent. reserve — at least 3 per cent. in cash, 3 per cent. in bonds as above and the remainder with an approved reserve depository (section 164).

If anything were needed to show that municipal bonds are in no sense reserve, it is furnished by the condition and range of prices of such bonds at the present time, having special reference to bonds of the city of New York.

It may be stated generally, that the same kind of business should be protected by the same percentage of reserve, whether it be done by National banks, State banks or trust companies. It is claimed, however, that exceptions should be made to this rule. It is urged that National banks of New York city (Manhattan) are the reserve depositories of National and State banks generally throughout the country. They are engaged in a much wider range of business and are likely to be drawn upon at times and under circumstances when State banks are exempt. For instance, the funds supplied to the interior for the movement of the grain and cotton crops, are practically all drawn from the National banking institutions. They have thus a wider range of exposure than State banks. Conditions, however, which affect the National banks, immediately impress their influence upon the State banks, and no line of demarcation can well be drawn.

State banks and trust companies are largely the depositories for savings banks, because savings bank deposits by State law are preferred in State institutions.

There are, in the city of New York, seventeen National banks which have very few correspondent banks in the interior, whose business is hence closely akin to that of the State banks in all respects, and these banks keep 25 per cent. reserve.

The combined status of all of the banks in the metropolis constitutes, in the eyes of the public, the ultimate reserve strength of the nation; this is necessarily weakened, if a certain number of them are permitted to hold less cash reserves than the others do; the burden is unequally borne. The Clearing House Association (fifty-two members) endeavors to maintain the aggregate at or above the 25 per cent. ratio;



most of the State bank members thereof voluntarily observe this, and we see no sound reason why they should not all be required to do so, especially in view of the fact that many of them are establishing branches (not permitted to National banks), which emphasizes the need for full reserves.

#### TRUST COMPANY RESERVES.

Some distinction should be made between banks of discount and trust companies in respect to reserve requirements. Trust companies are required to invest their capital in bonds of the United States, or of the State of New York, or of municipalities in the State, or it may be in mortgages (section 159). They must also deposit not less than 10 per cent. of their capital with the Banking Department, in bonds (section 14). These provisions as to capital investment were regarded in the nature of reserve and the public have therein a measure of protection.

The theory upon which trust companies were formerly permitted to hold deposits without provision for a cash reserve, was that the deposits represented chiefly trust funds of estates, etc., which were not subject to check, but presumed to be to a large extent invested as authorized by the statute or by the instruments under which the funds were held. The ordinary bank relation of debtor and creditor did not exist, as the funds were held for the benefit of *cestui que trusts*. The deposits repayable to depositors (where the ordinary bank relation of debtor and creditor existed), were represented by certificates of deposit in the nature of a contract, giving the trust company the privilege of requiring some period of notice, generally five to ten days.

The specially chartered companies, prior to the trust company legislation of 1887 did not, as a matter of practice, receive deposits subject to check to any considerable extent. Under their powers (section 156, par. 2), trust companies are authorized "to receive deposits of trust moneys, securities and other personal property." The circumstance that the charters and the law are silent as to check accounts, left the way open to trust companies to do a general banking business. This has resulted in the accumulation by the trust companies

in New York city, of deposit liabilities almost equal in volume to those of the banks, the protection of which in the way of cash reserve, is the 25 per cent. cash reserve maintained by the banks, plus the 5 per cent. cash reserve now (since 1906) held by the companies (section 164).

It has been suggested to us to classify the deposits of trust companies, with a view to graduating the reserve that should be kept upon the same — substantially as follows:

(a) Trust deposits, preferred by the terms of section 158 of the Banking Law. Such deposits are not subject to check, are awaiting investment and require no reserve.

(b) Deposits payable upon notice of not less than thirty days, or maturing at a fixed date at least thirty days in the future. Such deposits would manifestly require less reserve than demand deposits.

(c) Demand deposits, which should manifestly require the same reserves as deposits in banks of discount.

We are not certain that such a plan of estimating reserves would prove practicable, and it would clearly open the way to difficulties in administration. We have, however, not ignored the merits of the suggestion. It has been officially reported that fully 80 per cent. of the deposits of the companies are subject to check; it follows that a 20 per cent. cash reserve upon the total deposits would be the equivalent of a 25 per cent. cash reserve in the case of banks. We find, however, that the proportion of demand deposits, as shown by reports to the Bank Department, is somewhat larger, as the following data show:

*Average Deposits as Given in Returns for January 1, 1906;  
January 1, 1907; August 22, 1907.*

Total deposit liability.....	\$841,000,000
Deposits represented by certificates.....	81,000,000
Sums held as executor, etc.....	35,000,000
Deposits subject to check and due to banks and other trust companies .....	725,000,000

Ratio of last-named item to total.....86.28 per cent.

To avoid the practical difficulties in a classified plan, we have applied the same to several companies for the purpose of ascertaining what ratio of reserve on the total deposits would be its equivalent.

All these studies lead us to the conclusion that a reserve of 25 per cent. should be maintained by the trust companies in the city of New York proper (borough of Manhattan), of which 15 per cent. should be cash on hand and 10 per cent. cash in some bank or trust company approved by the Superintendent of Banks.

At the same time, all limitations as to the investment of trust company capital should be removed. The limitation imposed is a hardship to the companies and has failed to afford that protection to the public which was hoped for.

In 1897 the reserve deposits of the National banks and State banks and trust companies in New York city (borough of Manhattan), amounted to \$877,700,000; the total cash held by the same was \$200,400,000, the percentage of reserve being 22.8. (Table "B.")

In 1907 the reserve deposits of the National banks and State banks and trust companies in the city amounted to \$1,951,600,000. The cash held by the same was \$324,300,000, the percentage of reserve being 16.6, a decrease of 6.2 points during the period of ten years, or a shrinkage of 27.2 per cent. (Table "B.")

In other words, the protection of the business of the city of New York, afforded by the banks' reserves, suffered a decrease of over 27 per cent. in the decade, notwithstanding the fact that in 1907 trust companies were required to keep 5 per cent. cash reserve under the law of 1906.

Let us trace the details of the growth of the business of New York city, as evidenced by its banking power and the reason for this shrinkage in reserve power will clearly appear.

The total resources of the banking institutions in 1897 was \$1,220,800,000; in 1907, \$2,843,500,000, being an increase of 132.9 per cent. The total resources of the National banks increased 92.1 per cent.; those of the State banks increased

118.5 per cent.; those of the trust companies increased 228.4 per cent. (Table "B.")

Of the gain in business in the decade, 14.4 per cent. accrued to State banks; 46.2 per cent. to trust companies; 39.4 per cent. to National banks. (Table "G.")

Another and more forceful way to express the advantage which trust companies enjoy, from a money-making standpoint, is to state the percentage of their total resources which, under existing laws and practices, is earning interest as compared with the resources of State and National banks; 70.9 per cent. of the total resources of State banks are (1907) loaned or invested in securities or real estate—in other words, earning interest. The percentage of the total resources of the National banks earning interest is 70.3; whereas 92.2 per cent. of the total resources of the trust companies is earning interest. (Table "H.")

From returns covering five periods, collated in Table "I," it appears that the deposits held by trust companies averaged 36.3 per cent. of the total for all institutions in the city, while the cash reserves held by them were only 10 per cent. of the whole; State banks, with 14 per cent. of the deposits, carried 15 per cent. in cash reserves; National banks held 49.7 per cent. of the aggregate deposits and 75 per cent. of the cash. Nor was the relative situation materially different when the two reports since the enactment of the law of 1906 are considered. (Table "F.")

As the volume of bank business increases, their reserves correspondingly increase under the law. The larger comparative growth of the trust companies results from the fact that people will seek to make money along the lines of least resistance.

Trust companies have no claim to special indulgence on the part of the State; they are organized for the purpose of making money for their stockholders, precisely as are the banks of discount; and since they are measurably engaged in the same class of business, we are unable to see why they should not bear their fair share of the responsibility of protecting the

business and commercial interests of the State by keeping proper reserves. They have become a most useful, important and powerful factor in our banking system, and they have come to stay. Their banking power nearly equals that of discount banks, and their responsibilities, so far as they do a banking business, should be the same. The proposed increased reserve requirements will result in the accumulation in the vaults of these trust companies of a very considerable amount of cash. (Table "I.")

The weekly bank statement of the New York Clearing House is telegraphed throughout the country and cabled abroad; it is studied carefully and exercises a most important influence upon monetary and business affairs. The reserve power shown is the dominant factor in insuring public confidence. Had the banking position been better fortified with reserve, it is fair to assume that confidence at the present time would not have been impaired, at least to so great an extent, and consequently the withdrawal and hoarding of money would have been lessened.

The financial crisis through which we are at present passing, coupled with the very inadequate and defective currency system which obtains in this country, has resulted in the hoarding of currency both by banks and individuals to a very considerable extent. In the past a period of money-hoarding has been followed by a period of money-plethora. Judging by experience, we may expect a most favorable opportunity to accumulate the proposed reserve.

#### RESERVES GENERALLY.

The city of Brooklyn and the city of Albany are designated as reserve cities under the National law and are required to keep 25 per cent. reserve —  $12\frac{1}{2}$  per cent. cash-on-hand and  $12\frac{1}{2}$  per cent. with some central reserve city. We think that State banks and trust companies, located in those two cities, should keep the same reserve as National banks located therein.

State banks and trust companies in all other places in the State should keep 15 per cent. reserve — two-fifths (or 6 per cent.) in cash-in-bank, and the remainder in some bank or trust company approved by the Superintendent of Banks. This would place the State institutions on a par with the National banks and will, we think, strengthen their credit and redound to their advantage. There is no reason why the banking system of the State of New York should be in any respect inferior to any other system of banking, less conservative in its methods or less protected by reserve.

Care should be taken to prevent evasion of the laws as to due-from-bank reserves, such as we find to have been practiced under existing law. To illustrate: (Trust Co.) "A" deposits \$100,000 with (Bank) "B;" "B" in turn deposits the same amount with (Trust Co.) "C," and "C" deposits the same amount with "A." This would avoid an offset of deposits and leave each institution in possession of its original amount of funds and enable each to count such deposit as reserve, under the present law.

New York is the Empire State, and New York city is the financial and commercial center of this continent. It may not be the financial center of the world, but in the very near future it will surpass in banking power and commercial importance any other one city, wherever located. Its growth will keep pace with the development of our own country and also must parallel expanding commerce and increasing wealth of the whole world. This fair prospect, which must appeal to us all, will, we fear, be seriously clouded if the reserve protection of our banking and business interests is permitted to decrease in the future as it has in the past.

#### RECEIVERSHIPS.

As before indicated, we recommend a radical change in the law governing the closing and liquidation of insolvent corporations under the supervision of the Banking Department.

In general terms, the existing law (chap. 60 of 1902) provides that the Superintendent of Banks shall report delinquent,

insecure and insolvent institutions to the Attorney-General, who makes application to the Supreme Court on behalf of the State, for the appointment of receivers. Pending such appointment, presumably, although the law does not specifically provide therefor, the Banking Department remains in charge of such institutions, transferring the assets and entire control to the receivers when they have duly qualified. The entire business of liquidation then passes absolutely from the control of the Banking Department and is formally in the jurisdiction of the court, subject only to certain supervision on the part of the Attorney-General.

The history of the subsequent administration of such trusts is in the records of the courts and in the office of the Attorney-General. No reports of the administration of these trusts are collated or made public. The restraining influence of publicity is entirely divorced from their subsequent management. We think this a great mistake, and the conclusion is amply borne out by such facts as we have gleaned from the records for contrast with the administration of similar trusts under the National Bank Act. (Table "K.")

The Superintendent of Banks should by law be made the receiver of all failed corporations subject to his jurisdiction, or receivers should be appointed by the Superintendent, precisely as receivers of National banks are appointed by the Comptroller of the Currency; the administration of such trusts should be under his supervision, and regular reports of their condition should be made and become matters of public record.

The Department should have an examiner or examiners of failed banks, whose duties should be to constantly supervise the same and to aid the Superintendent in effecting compromises and in bringing together adverse and contending interests, in order that matters in dispute may be adjusted and the assets realized upon with as little litigation and delay as possible, all for the purpose of yielding the largest possible dividend to the creditors of the institution. By administering the trust in the above manner the assets could be liquidated very

much as they would be in the case of a going bank and very largely to the advantage of the creditors.

If it be objected that this is placing too great power in the hands of one man in respect to large and important interests, we answer that similar power is possessed and exercised by the Comptroller of the Currency with reference to National banks; and while the banks and companies in this city and State, subject to the Superintendent, are large and important, still they are not larger nor more important than the National banking institutions supervised by the Comptroller of the Currency. The concentration of power and of responsibility is indeed essential to efficient administration.

Attorney-General Davies, in 1902, reported to the Legislature that he had caused to be compiled the cost (receivers', attorneys' and referee's fees and expenses) of liquidating insolvent banking and insurance companies for a period of ten years, covering seventy cases; that the expense of a large number of those receiverships had been from 20 per cent. to 30 per cent. of the receipts, some of them running as high as 80 per cent. or 90 per cent. (Table "K.")

The National banking system has been in existence for forty-three years and embraces at this time 6,600 banks. The total number failed since the creation of the system to the end of 1906 is 468. The total receipts of these several receiverships were \$164,498,000 and the total expenses \$12,208,000, a ratio of expenses to receipts of 7.4 per cent. This contrasts most favorably with the administration of failed banks under our State law.

Nor is the lower ratio of cost attributable in any material degree to the fact that such expenses are ordinarily lower in other States; for in the case of the thirty-nine insolvent National banks located in this State, the percentage of total expense was 8.7, little more than one-half the ratio in the cases of State banks liquidated.

While under our system the compensation of receivers is fixed and appears fairly reasonable, incompetent persons are frequently appointed, which in itself increases the expense; and the fees are often increased by the courts upon special



pleas. The number of attorneys to be employed and their compensation are not regulated properly; many matters, which might readily be made the subject of adjustment by applying the same principles which obtain as between individuals, become subjects of litigation; expensive "references" are necessary, not only for the settlement of contested questions, but upon the occasions of the periodical accounting of receivers. These circumstances cause inordinate legal expenses, largely added to by the notoriously cost-breeding delays in so many of our courts. The difficulty and expense of getting rid of a receivership in the case of a bank temporarily embarrassed and which ought to be permitted to reopen would be avoided by reposing in the Superintendent of Banks the powers we suggest.

Very much of this expense could be obviated by adopting the principle which has worked so well in the National system. No one can seriously compare the methods and results of the two systems and fail to be impressed with the facility, efficiency and economy of that operating under the National law. By contrast our State system exhibits delay, incompetence and extravagance.

#### SAVINGS BANKS.

We are greatly surprised at the extent to which other institutions are doing a savings bank business, as evidenced by the figures submitted. They receive deposits, issue pass-books and the deposit is only payable upon return of the pass-book. This we believe open to severe criticism, but think it is a matter to be dealt with by the Superintendent in his report. It is somewhat difficult to separate trust business proper from what is banking business pure and simple, in the trust companies, but there should be no difficulty in differentiating savings bank business from ordinary bank business.

The laws governing banking corporations should be subjected to rearrangement, revision and codification; they contain certain minor defects not affecting the actual business, but nevertheless susceptible of improvement. The provisions covering related features are often scattered, the result of

much additional legislation since the last codification. Some provisions are duplicated, and altogether the body of the laws is in confusing form.

Respectfully submitted,

A. B. HEPBURN,  
STEPHEN BAKER,  
ANDREW MILLS.

With the exception of the reserve of 15 per cent. cash for trust companies, which I regard as too low, I concur in the above report and will forward a memorandum on the subject of reserves.

A. S. FRISSELL.

With the exception of the recommendations relative to the reserves of banks and trust companies, we concur in the foregoing report. Our conclusions upon that subject are set forth in the accompanying memorandum.

F. S. MARSTON,  
EDWARD W. SHELDON,

*Committee.*

DATED, *December 16, 1907.*

#### MEMORANDUM REGARDING RESERVES OF STATE BANKS AND TRUST COMPANIES.

The subject of reserves is properly regarded as of great importance in the conduct of banking. It is likewise a subject of some complication. While on the one hand it is essential that adequate provision be made for prompt payments in cash of such proportion of the deposits as long extended banking experience indicates to be reasonable, on the other hand it is disadvantageous alike to depositors and the general public to have an unnecessary amount of our insufficient money supply withdrawn from circulation and locked up in vaults. The Trust Company Reserve Law of 1906, for example, by its withdrawal from circulation between May, 1906, and January, 1907, of between \$30,000,000 and \$50,000,000 of cash to constitute the lawful money reserve of 5 per cent., doubtless contributed in appreciable measure to the present money stringency, without in any degree preventing the embarrassment of the few trust companies which have recently been . . .

subjected to rapid withdrawals of deposits. Nor were the National banks, with which the trouble began, wholly protected by their cash in vault. Indeed no possible cash reserve can be adequate to meet such periods of stress. So that we may conclude that the recent troubles among financial institutions, State and National, must have had other causes as well as insufficient cash reserves.

It may be freely conceded that the same kind of deposits should be protected by the same percentage of reserve, whether they are held by National banks, State banks or trust companies. But it is equally clear that these three classes of institutions do not deal in the same kind of deposits. As the reserve depositories of National and State banks generally throughout the country, the National banks of Manhattan are widely and constantly exposed to special drafts. Hence the need in their case for a maximum amount of lawful money reserve. The State banks of that borough occupy a more local and much less exposed position. If 25 per cent. lawful money reserve is required for the National banks, 15 per cent. instead of as at present,  $7\frac{1}{2}$  per cent. in money and  $7\frac{1}{2}$  per cent. in approved reserve depositories, would seem to be adequate for the State banks here. For banks elsewhere in the State, we are not yet convinced that the present reserve requirements are insufficient.

A marked distinction should be made between trust companies and banks of discount, whether State or National, in respect to reserve requirements. While the deposits of trust companies have rapidly increased in the last few years, and are now almost equal in Manhattan to those of the National banks, it should also be remembered, as showing the comparative inactivity of trust company deposits, that the clearings of those companies in Manhattan are only about one-thirteenth of the clearings of the associated banks.

By way of reserve, trust companies have always been required to invest their capital in real estate mortgages or in bonds of this State or of the United States, or of counties or cities in the State. (Section 159.) They must also deposit with the Superintendent of Banks not less than 10 per

cent. of their capital in such bonds, or in real estate mortgages. On the aggregate capital of the trust companies in the State, these two requirements create a reserve equal to about 7 per cent. of their aggregate deposits.

No further provision for trust company reserves was made until last year, when the whole subject was considered at length by the Legislature, and the reserve prescribed by section 163 was created. Briefly stated, that law requires 15 per cent. reserve in the city of New York, of which at least one-third must be actual money, not more than one-third may be in bonds of the character described above, and not more than two-thirds may be on deposit in approved banks or trust companies. In other parts of the State the reserve must be 10 per cent., of which at least three-tenths must be money, not more than three-tenths may be in bonds, and not more than four-tenths in approved depositories.

This reserve law of 1906 was doubtless due to the fact that after the enactment of the General Trust Company Law in 1887, many new trust companies were formed, the corporate activities of some of which had grown more and more like the business of banks. This change in corporate functions has been due to other causes than legislative policy, for the only direct statutory authority upon which the ordinary bank deposit business of a trust company could be based, is found in subdivision 2 of section 156, where power is given to trust companies "To receive deposits of *trust* moneys, securities and other personal property from any person or corporation, and to loan money on real or personal securities." The obvious intention of this clause, which was taken from the charters of the specially incorporated trust companies, was to permit more or less permanent deposits of reserve and trust funds upon such terms as to repayment and as to interest as might be agreed upon. That there was no purpose to authorize general deposits, subject to check at sight, is indicated in two other places in the Banking Law, first in section 2 by the definition of a "trust company" as "a corporation formed for the purpose of taking, accepting and executing such trusts as may be lawfully committed to it and acting as trustee in

the cases prescribed by law, and receiving deposits of money and other personal property, *and issuing its obligations therefor*, and of loaning money on real and personal securities;" and secondly, in section 14, by the reference to a trust company as a corporation "engaged in receiving deposits of money in trust." It thus appears that the receipt of such deposits of money was intended to be incidental and in a sense akin to the principal trust company business, namely, the execution of trusts. In receiving and paying out these deposits, actual money transactions have not been common. Each trust company has had its own banks of deposit and payments of deposits have ordinarily been made by giving the depositor the trust company's check on one of its banks. In some of the companies, too; a large portion of the deposits, represented either by certificates of deposit or draft accounts, has been payable on time. The practice of allowing active check accounts, payable on demand, has only grown up in the last few years, and almost always, we think, among the newly-formed companies. Many of these companies do practically no trust business, and instead of being merely depositors in the banks, have become their active competitors. By way of retaliation, perhaps, most of the banks have adopted the habit of allowing interest on deposits subject to payment by check. It seems advisable on every ground that the essential distinction between banks and trust companies should be restored. In this way only can the evil of the present situation be eradicated, and any reformatory legislation should have that end in view. The difficulty with the reserve recommendations of the main report seems to us to lie in the fact that they probably would have the effect of encouraging, instead of restraining, the fusing in one corporation of two distinct classes of corporate business, with the result of compelling trust companies to become more and more like banks. From that policy it is an easy step to allow banks to transact a trust company business.

To give effect to these important principles, it is suggested that in cities of upwards of eight hundred thousand inhabitants, a lawful money reserve for trust companies of 15 per

cent. upon all deposits payable on demand, in addition to the reserve supplied by their capital investment and the 10 per cent. guaranty fund, would be adequate. In other parts of the State, a lawful money reserve equal to that which may be found proper for State banks in the same locality should be required on all demand deposits.

DATED, *December 16, 1907.*

EDWARD W. SHELDON,  
EDWIN S. MARSTON.

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His Excellency, CHARLES E. HUGHES, *Governor of the State of New York, Executive Chamber, Albany, N. Y.:*

SIR.—While I approve the report signed by Mr. Hepburn and others as a whole, and favor particularly a cash reserve of 25 per cent. for the State banks in the borough of Manhattan, I maintain that 25 per cent. in cash, exclusive of the strictly trust deposits, should also be kept in the vaults of the trust companies in the borough of Manhattan, my premise being that the same reserve should be kept by the National banks, trust companies and the State banks in the borough of Manhattan, and that therefore any institution doing a banking business, whether under the name of bank or trust company, should carry the same cash reserve.

It would be pleasanter for me to agree with the report, but as this matter of reserve, when once arranged, will be difficult to change, I believe that harmony in the commission is of less importance than the expression of individual views.

#### SUFFICIENT CASH RESERVE NECESSARY.

The difference between a civilized and a barbarous country, from a commercial point of view, is that one uses credit largely, and the other but little. Credit rests upon cash; banking rests upon cash. A reserve is the foundation on which the superstructure of credit rests, and it must be broad enough to carry the weight. A reserve is little used in or-

dinary times, but it is kept not only for a basis of credit, but for actual use in times like the present. In 1893, as well as this year, the clearing house banks in New York decreased their reserves from 25 per cent. to 20 per cent., and by so doing kept the Stock Exchange open, relieved the trust company situation, shipped money to the interior, and in general built a bulwark against extreme fright and loss. Another important thing about reserve is mobility. The clearing house banks, by acting together, without friction or trouble, and by the issuance of clearing house certificates, automatically helped their weaker members, and the weaker banks obtained such help as was necessary without delay or humiliation. Even before the loan certificates were issued, it was easy for the clearing house banks, with their accumulated reserves, to pay if necessary the deposits of the three banks which needed assistance and reorganization. Compare this with the halting, irregular and protracted manner in which the two trust companies were helped! There were lines of anxious depositors outside their doors for weeks. These trust companies could not immediately obtain requisite assistance. This shows the difference between the disadvantages of the slight trust company reserves, as now managed, and the tried and ample reserves of the clearing house banks. The claim that additional cash reserve takes money out of circulation is without force if reserves are insufficient.

Deposits of the clearing house banks in the city of New York have increased from \$370,300,000 in 1893 to over a billion dollars, owing in part to the large increase of the production of gold in the world. The clearing house banks have built up their cash reserves since 1893 from \$93,000,000 to \$256,000,000. The fact that the trust companies in the borough of Manhattan have not increased their reserves correspondingly while their deposits have been increasing, from about \$224,000,000 in 1893 to over a billion dollars in 1905, has contributed to the present panic. A billion dollars in deposits is a superstructure that cannot be maintained on a 5 per cent. cash reserve, and it was sure to topple over.

## TIME FAVORABLE FOR INCREASING RESERVES.

There is a difference between the periodical lock-up of funds in the United States Treasury and the gradual increase of reserve by banks and trust companies, because after the reserve has once been accumulated it fluctuates only as the deposits rise and fall. We are in a position similar to that of a country desiring to get on a gold basis. Gold naturally flows where it is most desired. Just at this time the accumulation of additional reserve can be easily accomplished. In the panic of 1893, after the reserves of the clearing house banks had gone down to 20 per cent., as was the case this year, they increased before the end of the year to about eighty million dollars surplus reserve above 25 per cent. This was on \$506,000,000 deposits—less than half of our present deposits in clearing house banks. The same increase after the close of our present stringency would give the banks over \$160,000,000 surplus reserve; should we succeed in getting this amount it would be nearly enough for the reserves of the trust companies. Another reason why this is an exceptionally good time for building up reserves is that the trust company deposits are low, and a relatively smaller amount of cash will be required. A similar situation cannot be expected to occur until after the next panic.

If the trust companies, with or without legislation, will judiciously lock up the coming plethora of money in their own vaults, they will hold, in whole or in part, the gold which has been shipped here in such large quantities, and the rates of discount will not be high.

## TRUST COMPANIES SHOULD KEEP THEIR OWN RESERVES.

There is a reason for country banks keeping reserve accounts in New York, because their business requires them to draw on New York, but there is no economic reason for a trust company to keep a reserve account in another institution in the same city, other than in a central reserve bank like the Bank of England. A few years ago, even as late as 1897, when the trust company deposits were only \$258,000,000, they were small compared with the deposits of the clearing



house banks, and it was not a matter of so much importance, but now when the trust company deposits have been nearly equal to those of the clearing house banks, the situation is serious.

One objection to allowing the reserve of one institution to be kept in another institution in the same city has developed in the recent panic. Under the reciprocal reserve plan Trust Company A deposits \$500,000 with Trust Company B; Trust Company B deposits an equal sum with Trust Company C; and Trust Company C deposits the same amount with Trust Company A, thus making one-half million dollars counted as reserve three times.

A number of the recent reports of the joint stock banks in London show that even there they have leaned too much on the Bank of England, and that it is necessary for the joint stock banks to keep a larger reserve in their own vaults.

#### CALL LOANS NOT A SUBSTITUTE FOR CASH.

It is objected that the cash reserves of trust companies are not necessary, as they do not depend upon the cash, but upon their call loans for fluctuations in deposits. This is no less true of the National and State banks in New York city, but the stock market, as well as all other business which is represented by dollars, depends upon cash. One of the things that the clearing house banks have to do in a time like this is to see that sufficient money is lent to share and bond dealers, in order that there may be a market for the purchase and sale of securities. In 1873 clearing house certificates were not issued early enough, and the condition of affairs became so chaotic that it was necessary to close the Stock Exchange for about ten days, and call loans could not be paid. Support comes from the reserves, and the trust companies should do their share.

#### DIFFERENCE IN RESERVES EQUIVALENT TO A REBATE.

If a town has a railroad rebate the competitive town without the rebate goes to the wall. The press has shown how a system of rebates has destroyed competition. The present

discrimination in favor of the trust companies, that is between 25 per cent. cash reserve and 5 per cent. cash reserve, is 80 per cent. If the trust company cash reserves should be increased even to 20 per cent., the rebate against the banks would be 20 per cent.; that is, the difference between 20 per cent. and 25 per cent. reserve. On the face of it the comparative profits of the trust companies and banks may not be of public interest, but a slight examination of the subject shows that good banking is essential to the public good. The competition of the trust companies, both in the city and State, has honeycombed the banking situation; it has tempted the banks, in order to meet the competition, to take long loans for better rates and take undue risks. It seemed necessary for the banks to do this in order that they might pay the same rate of interest as the trust companies did easily with their smaller reserve. The reports of the trust companies, State and National banks in the borough of Manhattan, show that the trust companies get profit on 92.2 per cent. of their resources, as against 70.3 per cent. and 70.9 per cent. by the National and State banks respectively; these figures show how great the rebate has been against the National and State banks in favor of the trust company business. Even should the reserves of the trust companies be increased to 20 per cent., they could frequently pay 1 per cent. more interest than the banks carrying 25 per cent. reserve. A few only of the old and established banks have, for themselves, met the situation by refusing to pay interest at all, but this is impracticable for the new or ordinary bank.

#### THE INTEREST OF A FEW *VS.* PUBLIC INTEREST.

The banking situation in New York is peculiar. There are banks which have heavy deposits from country banks, and to this extent they are protected from trust company competition. Other banks in Wall street have large trust company deposits; this enables them to accept the trust company competition with profit. But the majority of the banks in the clearing house, as well as the thirty other banks in the borough of Manhattan which are not in the clearing house, are not

thus situated, and but few State and National banks throughout the State of New York have any of the favorable conditions named above. They protest strongly against the bad banking which is induced by this unfair competition. Two State institutions doing substantially the same business should be under the same regulations as regards reserve, whether called banks or trust companies. The report properly tries to help the situation as far as the country is concerned, but the borough of Manhattan is left to struggle with the difficulties alone, in a modified form.

There are 404 National banks in the State of New York, and 196 State banks, making 600 in all. Many of these banks have long and honorable records. The solution has been proposed by different trust company officers that the National and State banks should become trust companies. It can fairly be asserted that this would not be for the public good.

#### NO EXCLUSIVE RIGHT IN TIME DEPOSITS.

There is something amusing about the sacrosanct view regarding trust company deposits. There seems to be an implication that time deposits belong to the trust companies of right. Banks have always favored deposits likely to remain, and in fact they are the cream of the business.

The majority of the Commission tried hard to find some way of differentiating the trust company deposits, so as to arrange for one reserve on deposits subject to check and a different reserve on time deposits, but they found practical difficulties in enforcing any such provision.

Then the Commission tried to arrive at what should be the reserve for total deposits. The statistics gathered by the committee, contained in the report, show that:

The average gross deposits of the trust companies for three periods (Jan. 1, 1906; Jan. 1, 1907; Aug. 22, 1907) were.....	\$841,000,000
Deduct from this average sums held as executor, etc. . . . .	35,000,000
Which leaves net deposits of.....	<u><u>\$806,000,000</u></u>

The average deposits represented by certificates were \$81,000,000, or only about 10 per cent. of the net deposits. To represent this 10 per cent. of time deposits, the report allows the trust companies to keep 15 per cent. cash reserve on their total deposits, as against 25 per cent. cash reserve proposed for the banks in the borough of Manhattan. This is really an allowance of 40 per cent. in reserve to cover the 10 per cent. of trust company deposits represented by certificates.

From my point of view this is not fair to the banks, as there are probably many banks which have more than 10 per cent. of deposits which may fairly be called time deposits, such as funds awaiting investment, etc. The bank I serve is one, and such banks should be considered instead of discriminated against in new legislation. Why should not those deposits of banks which are really time deposits be considered as well as trust company time deposits? The banks have been driven into paying interest by the trust companies doing a banking business, and should have the same opportunities for receiving time deposits, on as favorable terms as the trust companies. In fact banks were organized to receive deposits, while trust companies formerly only received deposits by inference. Trust companies already have advantages over banks in that they have a number of profitable functions other than receiving deposits.

#### TIME DEPOSITS NOT TESTED BY EXCHANGES.

The trust companies have argued that because the checks paid over their counters daily are not as large in volume as those which pass through the clearing house daily, it shows that their deposits are permanent, and therefore less reserve is necessary. This may or may not be true, because, taking a merchant, for instance, while his average balance may remain practically the same, the transactions on his account may be very numerous.

#### CONCLUSION.

A reserve for the State banks and trust companies in the borough of Manhattan of 25 per cent. in cash will put them on a par with the National banks, and will make the banking system uniform as regards reserve. Should this reserve

prove too high, or too difficult of accomplishment, the reserve called for in the National Bank Act could probably be modified. At present the National banks are harassed by the unfair competition of the trust companies, as shown by the introduction of bills in Congress tending to give them a better chance to compete with the trust companies. The express intention of the Legislature to equalize the reserves of the National banks, State banks and trust companies, would be a basis under which all would be working together under one reserve for sound banking, instead of working against each other, as is the condition at the present time, and the advantages of sound banking to the community as a whole can hardly be overestimated, in view of the anxiety, loss and depression of business caused by the present panic.

Respectfully submitted,

A. S. FRISSELL.

NEW YORK, *December 16, 1907.*

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DECEMBER 16, 1907.

HON. CHARLES E. HUGHES, *Governor of the State of New York, Albany, N. Y.:*

DEAR SIR.—A portion of the Banking Law which we have considered, but did not care to incorporate in our report, refers to the salary and term of office of the Superintendent of Banks. We feel that he should be appointed for five years and that the salary should be \$15,000 per annum. A number of State officials have recently been appointed to whom that amount is paid and we feel that their duties and responsibilities are not in any sense equal to those imposed upon the Superintendent of Banks.

We trust this will meet with your approval.

Yours very truly,

A. B. HEPBURN,  
E. S. MARSTON,  
A. S. FRISSELL,  
ANDREW MILLS,  
EDWARD W. SHELDON,  
STEPHEN BAKER.

## A. COMPARATIVE STATEMENT OF

## STATE OF NEW YORK.

(Amounts in Mil)

RESOURCES.				
	1897	1902	1907	Increase %
<b>STATE BANKS.</b>				
Loans and discounts.....	173.4	214.8	339.4	93.1
Mortgages.....	2.0	4.2	6.6	117.6
Bonds, stocks, etc.....	18.4	25.2	37.4	
Cash.....	42.2	43.7	65.2	54.2
Due from banks.....	29.3	30.7	39.8	
Checks, cash items, etc.....	21.0	31.7	37.2	
Other.....	10.7	12.7	15.4	
Totals.....	297.0	363.0	541.0	82.1
<b>TRUST COMPANIES.</b>				
Loans and bills purchased.....	224.4	701.3	735.8	227.9
Bonds, stocks, mortgages, etc.....	102.0	218.8	414.5	306.3
Cash.....	8.2	10.5	59.3	623.1
In depository banks.....	46.5	118.5	95.1	
Due from other banks.....	0.4	2.8	27.1	
Other.....	15.2	26.3	32.2	
Totals.....	396.7	1,078.2	1,364.0	244.1
<b>NATIONAL BANKS.</b>				
Loans and discounts.....	491.4	778.0	948.0	93.1
Bonds with U. S. Treasury.....	39.4	98.2	119.0	220.5
Other bonds, stocks, etc.....	61.8	132.7	205.4	
Cash.....	171.5	225.6	242.0	41.1
Due from banks.....	62.3	94.3	112.3	
Checks, cash items, etc.....	60.3	187.3	132.4	
Other.....	28.5	34.2	41.7	
Totals.....	915.2	1,550.3	1,800.8	96.7
<b>AGGREGATE.</b>				
Loans, etc.....	889.2	1,694.1	2,023.2	127.5
Securities.....	223.6	479.1	782.9	250.0
Cash.....	221.9	279.8	366.5	65.1
Due from banks.....	138.5	246.3	274.3	
Checks, cash items, etc.....	81.3	219.0	169.6	
Other.....	54.4	73.2	89.3	
Totals.....	1,608.9	2,991.5	3,705.8	130.4
<b>RESERVE DEPOSITS.</b>				
State banks.....	187.9	250.4	383.0	
Trust companies.....	305.0	884.2	1,060.4	
National banks.....	618.4	975.7	1,145.4	
Aggregate.....	1,111.3	2,110.3	2,588.8	

## BANKS AND TRUST COMPANIES.

(in millions of Dollars.)

	LIABILITIES.			Increase %
	1997	1902	1907	
Capital.....	30.7	25.5	35.9	17.0
Surplus and profits.....	27.7	28.9	45.6	64.6
Deposits.....	195.5	255.2	388.9	85.8
Due to banks.....	38.7	52.6	66.2	
Other.....	4.4	0.8	4.4	
Totals.....	297.0	363.0	541.0	82.1
Capital.....	30.4	53.2	68.7	112.8
Surplus and profits.....	50.5	113.7	176.9	250.3
Deposits.....	305.4	887.0	964.0	256.1
Due to banks.....	*	*	123.5	
Other.....	10.4	24.3	30.9	
Totals.....	396.7	1,078.2	1,364.0	244.1
* Not separately reported.				
Capital.....	83.3	125.6	159.1	91.0
Surplus and profits.....	81.8	126.0	179.1	119.0
Circulation.....	30.0	53.0	80.5	88.2
U. S. deposits.....	1.9	43.1	39.4	
Deposits.....	452.0	710.9	798.1	
Due to banks.....	264.4	479.1	513.1	88.2
Other.....	1.8	12.6	31.5	
Totals.....	915.2	1,550.3	1,800.8	96.7
Capital.....	144.4	204.3	263.7	82.6
Surplus and profits.....	160.0	268.6	401.6	151.0
Circulation.....	30.0	53.0	80.5	129.4
Deposits.....	954.8	1,896.2	2,190.4	
Due to banks.....	303.1	531.7	702.8	
Other.....	16.6	37.7	66.8	131.8
Totals.....	1,608.9	2,991.5	3,705.8	130.4
RATIO OF CASH RESERVE.				
	%	%	%	
	22.5	17.4	17.0	
	22.7	1.2	5.6	
	27.6	22.1	21.1	
	19.9	13.2	14.1	

## B. COMPARATIVE STATEMENT OF

(In Millions)

## City of New York (Borough of Manhattan).

## RESOURCES.

	1897	1902	1907	Increase %
<b>STATE BANKS.</b>				
Loans and discounts.....	97.5	143.7	249.2	155.5
Mortgages.....	0.7	0.8	2.0	105.3
Bonds, stocks, etc.....	8.7	10.2	17.3	
Cash.....	34.6	37.2	57.3	65.6
Due from banks.....	13.5	15.5	22.4	
Checks, cash items, etc.....	19.7	30.2	35.7	
Other.....	6.2	9.2	11.4	
Totals.....	180.9	246.8	395.3	118.5
<b>TRUST COMPANIES.</b>				
Loans and bills purchased.....	165.0	567.2	610.3	269.9
Bonds, stocks, mortgages, etc.....	101.3	209.7	301.3	197.5
Cash.....	7.0	7.9	48.2	
In depository banks.....	38.4	92.9	75.5	
Due from other banks.....	.....	7.5	23.2	
Other.....	12.6	20.6	25.0	
Totals.....	324.3	905.8	1,083.5	234.1
<b>NATIONAL BANKS.</b>				
Loans and discounts.....	381.7	620.3	712.6	86.7
Bonds with U. S. Treasury.....	20.3	73.4	83.3	237.0
Other bonds, stocks, etc.....	45.1	91.6	136.1	
Cash.....	153.8	209.3	218.8	37.8
Due from banks.....	32.6	51.6	55.2	
Checks, cash items, etc.....	57.6	183.1	126.7	
Other.....	19.5	25.9	32.0	
Totals.....	715.6	1,255.2	1,364.7	92.1
<b>AGGREGATE.</b>				
Loans, etc.....	644.2	1,331.2	1,572.1	144.0
Securities.....	176.1	385.7	540.0	206.6
Cash.....	200.4	254.4	324.3	61.9
Due from banks.....	84.5	167.5	176.3	
Checks, cash items, etc.....	77.3	213.3	162.4	
Other.....	38.3	55.7	68.4	
Totals.....	1,220.8	2,407.8	2,843.5	132.9
<b>RESERVE DEPOSITS.</b>				
State banks.....	117.1	167.0	275.5	135.3
Trust companies.....	258.6	736.3	826.0	219.8
National banks.....	502.0	788.4	850.1	69.6
Aggregate.....	877.7	1,691.7	1,951.6	122.3



## BANKS AND TRUST COMPANIES.

of Dollars.)

	LIABILITIES.			* Increase %
	1897	1902	1907	
Capital.....	14.8	13.5	24.2	
Surplus and profits.....	15.7	19.3	34.3	
Deposits.....	121.2	169.6	280.5	131.4 } 121.9
Due to banks.....	29.1	43.1	53.1	82.4 }
Other.....	0.1	1.3	3.2	
Totals.....	180.9	246.8	395.3	
Capital.....	21.5	41.2	51.5	
Surplus and profits.....	37.2	98.2	154.4	
Deposits.....	253.6	743.8	741.8	186.8 } 228.4
Due to banks.....			107.4	
Other.....	7.0	22.6	28.4	
Totals.....	324.3	905.8	1,083.5	
Capital.....	48.6	90.6	114.6	
Surplus and profits.....	60.3	98.7	140.2	
Circulation.....	13.9	32.0	50.8	
U. S. deposits.....	1.2	39.7	34.1	
Deposits.....	337.5	537.3	532.6	57.8 } 68.8
Due to banks.....	253.5	446.1	465.3	83.5 }
Other.....	0.6	10.8	27.1	
Totals.....	715.6	1,255.2	1,364.7	
Capital.....	84.9	145.3	190.3	
Surplus and profits.....	112.2	216.2	328.9	
Circulation.....	13.9	32.0	50.8	
Deposits.....	719.5	1,490.4	1,589.0	120.8 } 121.3
Due to banks.....	282.6	489.2	625.8	121.4 }
Other.....	7.7	34.7	58.7	
Totals.....	1,220.8	2,407.8	2,843.5	
CASH RESERVES.	%	%	%	
	29.6	22.3	20.8	
	2.7	1.1	5.8	
	31.6	26.5	25.7	
	22.8	15.0	16.6	

## C. BANKS AND TRUST COMPANIES IN

*Classified According to*(Amounts in Mi<sup>1</sup>)

RESOURCES.				
	National.	State.	Trust Cos.	All.
NEW YORK CITY (Manhattan).				
Loans.....	712.6	249.2	610.3	1,572.1
Bonds with U. S. Treasury.....	83.3	.....	.....	83.3
Bonds, stocks, mortgages, etc.....	136.1	19.3	301.3	456.7
Cash.....	218.8	57.3	43.2	324.3
Due from banks.....	55.2	22.4	98.7	176.3
Checks, cash items, etc.....	126.7	35.7	0.5	162.9
Real estate, etc.....	26.0	10.5	12.3	48.8
Other resources.....	6.0	0.9	12.2	19.1
Totals.....	1,364.7	395.3	1,083.5	2,843.5
BROOKLYN AND ALBANY (Reserve Cities).				
Loans.....	33.3	22.2	64.7	120.2
Bonds with U. S. Treasury.....	2.8	.....	.....	2.8
Bonds, stocks, mortgages, etc.....	8.6	5.3	45.5	59.4
Cash.....	5.5	2.2	6.2	13.9
Due from banks.....	14.8	3.4	9.5	27.7
Checks, cash items, etc.....	2.6	0.9	.....	3.5
Real estate, etc.....	0.9	1.8	2.8	5.5
Other resources.....	0.4	0.4	0.8	1.6
Totals.....	68.9	36.2	129.5	234.6
COUNTRY BANKS.				
Loans.....	202.1	68.0	60.8	330.9
Bonds with U. S. Treasury.....	32.6	.....	.....	32.6
Bonds, stocks, mortgages.....	61.0	19.4	67.7	148.1
Cash.....	17.7	5.7	4.9	28.3
Due from banks.....	42.3	14.0	14.1	70.4
Checks, cash items, etc.....	3.1	0.6	0.4	4.1
Real estate, etc.....	6.1	1.7	2.6	10.4
Other resources.....	2.3	0.1	0.5	2.9
Totals.....	367.2	109.5	151.0	627.7
AGGREGATE.				
Loans.....	948.0	339.4	735.8	2,023.2
Bonds with Treasury.....	119.0	.....	.....	119.0
Bonds, stocks, mortgages, etc.....	205.4	44.0	414.5	663.9
Cash.....	242.0	65.2	59.3	366.5
Due from banks.....	112.3	39.8	122.3	274.4
Checks, cash items, etc.....	132.4	37.2	0.9	170.5
Real estate, etc.....	33.0	14.0	17.7	64.7
Other resources.....	8.7	1.4	13.5	23.6
Totals.....	1,800.8	541.0	1,364.0	3,705.8

## NEW YORK STATE, AUGUST 22, 1907.

*National Bank Act.*

lions of Dollars.)

## LIABILITIES.

	National.	State.	Trust Cos.	All.
Capital.....	114.6	24.2	51.5	190.3
Surplus and profits.....	140.2	34.3	154.4	328.9
Circulation.....	50.8	.....	.....	50.8
U. S. deposits.....	34.1	.....	.....	34.1
Deposits.....	532.6	280.5	741.8	1,554.9
Due to banks.....	465.3	53.1	107.4	625.8
Other liabilities.....	27.1	3.2	28.4	58.7
Totals.....	1,364.7	395.3	1,083.5	2,843.5
Capital.....	3.7	2.9	9.3	15.9
Surplus and profits.....	5.7	3.3	14.1	23.1
Circulation.....	2.2	.....	.....	2.2
U. S. deposits.....	0.6	.....	.....	0.6
Deposits.....	26.5	25.1	92.1	143.7
Due to banks.....	29.8	4.6	12.4	46.8
Other liabilities.....	0.4	0.3	1.6	2.3
Totals.....	68.9	36.2	129.5	234.6
Capital.....	40.8	8.8	7.9	57.5
Surplus and profits.....	33.2	8.0	8.4	49.6
Circulation.....	27.5	.....	.....	27.5
U. S. deposits.....	4.7	.....	.....	4.7
Deposits.....	239.0	83.3	130.1	452.4
Due to banks.....	18.0	8.5	3.7	30.2
Other liabilities.....	4.0	0.9	0.9	5.8
Totals.....	367.2	109.5	151.0	627.7
Capital.....	159.1	35.9	68.7	263.7
Surplus and profits.....	179.1	45.6	176.9	401.6
Circulation.....	80.5	.....	.....	80.5
U. S. deposits.....	39.4	.....	.....	39.4
Deposits.....	798.1	388.9	964.0	2,151.0
Due to banks.....	513.1	66.2	123.5	702.8
Other liabilities.....	31.5	4.4	30.9	66.8
Totals.....	1,800.8	541.0	1,364.0	3,705.8

D. GROWTH OF TRUST COMPANIES, 1893 to 1907.  
From Reports, January 1, annually, and August 22, 1907.

## NEW YORK STATE.

(Amounts in millions of dollars.)

YEAR.	All resources.	Securities.	Loans	RESERVES.		DEPOSITS.		Due to banks.	Total deposits.
				Cash.	Bank.	Trust.	General.		
1893.....	335.7	72.3	216.0	9.0	25.9	119.4	144.9	Not separated prior to 1903.	264.3
1894.....	341.5	83.5	170.4	14.0	60.4	125.5	140.6		266.1
1895.....	365.4	119.2	171.7	10.8	50.4	124.4	161.3		285.7
1896.....	392.6	129.6	198.6	10.7	40.1	123.1	154.3		307.4
1897.....	396.7	130.7	195.7	8.2	46.5	91.0	214.4	198.2	383.3
1898.....	483.7	146.1	261.8	7.8	47.2	185.1	269.5	310.1	467.2
1899.....	579.2	171.5	313.3	8.5	63.3	197.7	310.1	392.8	638.2
1900.....	672.2	206.3	359.2	10.8	70.6	213.5	440.7	89.5	762.9
1901.....	798.0	237.6	427.7	9.4	96.3	245.4	529.0	156.9	823.8
1902.....	969.4	236.3	582.1	9.9	111.2	352.2	541.1	91.7	807.1
1903.....	1,040.0	271.8	597.2	10.5	125.4	205.3	695.0	109.7	1,127.6
1904.....	1,039.7	284.9	567.6	26.9	128.2	174.3	751.1	116.3	1,055.1
1905.....	1,364.0	360.2	753.8	35.1	173.1	275.7	1,816.5	123.6	1,084.3
1906.....	1,312.8	389.4	732.3	24.8	128.1	438.1	1,834.8	123.6	1,090.6
1907.....	1,365.2	386.7	741.6	55.3	113.0	†107.9	†812.0		
1907*.....	1,364.0	414.5	735.8	59.3	95.1				

Classification changed after 1905.

Amounts due as executor, etc., included in total of

1906..... 35.2 millions.

1907..... 45.1 millions.

Aug. 1907..... 47.1 millions.

\* August.

† Certificates of deposit

‡ Deposits subject to check.

E. DEPOSITS OF TRUST COMPANIES.  
*Classified, and Reserves.*

NEW YORK CITY (Manhattan).

	Subject to check.	Due to banks.	Certifi- cates.	As execu- tor, etc.	In trust.	Totals.	RESERVES.	
							Cash.	In banks.
1905								
June.....	645.9	138.6	110.3	39.8	87.2	1,021.8	22.4	121.6
September.....	662.5	142.5	99.9	37.7	89.0	1,031.6	20.1	130.8
November.....	617.8	99.0	89.7	32.2	79.9	918.6	16.4	88.0
1906					*	829.9	18.3	99.6
January.....	628.9	93.5	77.2	30.3	.....	856.9	18.6	95.1
February.....	641.4	103.8	78.9	32.8	.....	834.8	29.1	96.6
May.....	622.5	102.2	78.5	31.6	.....	892.5	36.6	99.8
August.....	659.8	115.1	81.6	36.0	.....	852.6	41.2	71.3
November.....	646.3	93.7	76.5	36.1	.....	843.1	44.1	93.2
1907					.....	869.7	47.8	73.2
January.....	631.9	101.8	71.6	37.8	.....	917.6	50.5	103.7
February.....	651.7	101.9	84.3	31.8	.....	851.8	48.2	75.5
June.....	659.7	121.6	106.2	30.1	.....			
August.....	611.6	107.4	93.0	39.8	.....			

\* After this date these were classified with other deposits: apparently "subject to check."  
The above method of classifying deposits was first used in June, 1905.

F. DEPOSITS AND CASH RESERVES, 1904 to 1907.  
*Proportions held by each class of Institutions.*

(Amounts in millions of dollars.)

NEW YORK CITY (Manhattan).

DEPOSITS.	STATE BANKS.		TRUST COMPANIES.		NATIONAL BANKS.		Totals.
	Amounts.	Per cent.	Amounts.	Per cent.	Amounts.	Per cent.	
January, 1904.....	221	11.3	647	33.2	1,082	55.5	1,950
January, 1905.....	326	13.2	933	37.9	1,205	48.9	2,464
January, 1906.....	347	14.1	830	33.7	1,285	52.2	2,462
January, 1907.....	357	16.3	841	38.2	1,000	45.5	2,198
August, 1907.....	334	15.1	849	38.3	1,032	46.6	2,215
Mean ratios all.....	.....	14.	.....	36.3	.....	49.7	.....
Mean for 1907.....	.....	15.7	.....	38.2	.....	46.1	.....
CASH RESERVES.							
January, 1904.....	33.9	11.9	19.8	7.0	230.3	81.1	284.0
January, 1905.....	44.1	13.7	25.7	7.9	253.0	78.4	322.8
January, 1906.....	47.7	15.8	18.3	6.1	236.2	78.1	302.2
January, 1907.....	52.4	16.2	44.1	13.6	227.4	70.2	323.9
August, 1907.....	57.3	17.6	48.2	14.9	218.8	67.5	324.3
Mean ratios, all.....	.....	15.	.....	10.	.....	75.	.....
Mean for 1907.....	.....	16.9	.....	14.2	.....	68.9	.....

G. THE GAIN IN BUSINESS, 1897 to 1907.  
*The Proportion of Gain to each of the three classes of Institutions.*

	NEW YORK CITY (MANHATTAN).			THE ENTIRE STATE.		
	State banks.	Trust companies.	National banks.	State banks.	Trust companies.	National banks.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
Total resources.....	14.4	46.2	39.4	11.6	46.2	42.2
Loans.....	16.3	48.0	35.7	14.6	45.1	40.3
Securities held.....	2.8	54.9	42.3	4.2	55.8	40.0
Loans and securities.....	9.6	51.4	39.0	9.4	50.4	40.2
Deposits.....	19.8	54.5	*25.7	15.6	53.3	*31.1
Due to banks.....	8.5	30.8	60.7	6.9	30.9	62.2
Both.....	14.1	42.7	43.2	11.2	42.2	46.6
Capital.....	9.4	28.3	62.3	4.3	32.1	63.6
Surplus and profits.....	8.7	54.3	37.0	7.4	52.3	40.3
Both.....	9.1	41.3	49.6	5.8	42.2	52.0

\* Including United States deposits.

## H. EMPLOYMENT OF RESOURCES EARNING PROFITS, COMPARING 1897 AND 1907.

(Amounts in millions of dollars.)

## NEW YORK CITY (Manhattan).

	STATE BANKS.		TRUST COMPANIES.		NATIONAL BANKS.	
	1897.	1907.	1897.	1907.	1897.	1907.
Total resources.....	181	395	324	1,083	716	1,365
Loans.....	98	249	165	610	382	713
Securities.....	9	19	101	302	65	219
Real estate.....	5	11	7	12	16	26
Deposits in reserve banks.....	.....	.....	38	75	.....	.....
Totals.....	112	279	311	999	463	958
Per cent. of resources earning.....	61.8%	70.9%	96%	92.2%	64.7%	70.3%



## I. DEPOSITS AND RESERVES.

*Present and Proposed, based upon returns of August 22, 1907.*

(Amounts in millions of dollars.)

	NATIONAL BANKS.		STATE BANKS.		TRUST COMPANIES.		ALL.
<b>NEW YORK CITY (Manhattan).</b>							
Reserve deposits.....		850.1		275.5		826.0	1,951.6
Cash reserve:							
Required.....	25%	212.5	7½%	20.7	5%	41.3	274.5
Held.....		218.8		57.3		48.2	324.3
Proposed.....	25%	212.5	25%	68.9	15%	123.9	405.3
Additional cash required.....		*—6.3		11.6		75.7	81.0
Ratio for all (present 16.6%).....							20.7%
<b>BROOKLYN AND ALBANY (reserve cities).</b>							
Reserve deposits.....		45.3		26.4		103.6	175.3
Cash reserve:							
Required.....	12½%	5.7	7½ & 5%	2.0	5 & 3%	4.0	11.7
Held.....		5.5		2.2		6.2	13.9
Proposed.....	12½%	5.7	12½%	3.3	12½%	12.9	21.9
Additional cash required.....		0.2		1.1		6.7	8.0
<b>COUNTRY BANKS (All others).</b>							
Reserve deposits.....		250.0		81.1		130.8	461.9

\* Cash held in excess of proposed requirement.

I. DEPOSITS AND RESERVES — (*Concluded*).

	NATIONAL BANKS.		STATE BANKS.		TRUST COMPANIES.		ALL.
Cash reserve:							
Required.....	6%	15.0	5%	4.0	3%	3.9	22.9
Held.....	.....	17.7	.....	5.7	.....	4.9	28.3
Proposed.....	6%	15.0	6%	4.9	6%	7.8	27.7
Additional cash required.....	.....	*—2.7	.....	*—0.8	.....	2.9	*—0.6
ENTIRE STATE.							
Reserve deposits.....	.....	1,145.4	.....	383.0	.....	1,060.4	2,588.8
Cash held.....	.....	242.0	.....	65.2	.....	59.3	366.5
Proposed reserve.....	.....	233.2	.....	77.1	.....	144.6	454.9
Additional cash required.....	.....	*—8.8	.....	11.9	.....	85.3	88.4

\* Cash held in excess of proposed requirement.

K. RECEIPTS AND EXPENSES OF CERTAIN RECEIVERSHIPS.  
*A. Institutions under the Supervision of the Banking Department.*

	Receipts.	Expenses.	Ratio of expenses.
1.....	\$2,642,000	\$331,000	12.5%
2.....	2,170,000	91,000	4.2%
3.....	1,228,400	81,000	6.6%
4.....	1,079,000	119,200	11.0%
5.....	898,000	172,000	19.1%
6.....	610,900	58,800	9.6%
7.....	583,000	111,000	19.0%
8.....	428,000	22,700	5.3%
9.....	379,200	112,400	29.5%
10.....	319,700	81,300	25.4%
11.....	275,700	102,000	37.0%
12.....	249,000	49,000	19.7%
13.....	206,000	39,000	18.9%
14.....	174,000	54,000	31.0%
15.....	141,000	45,000	31.9%
16.....	139,200	31,200	22.4%
Totals.....	\$11,523,100	\$1,500,600	13.01%

*B. National Banking Associations.*

	Receipts.	Expenses.	Ratio.
468 cases.....	\$164,498,800	\$12,207,900	7.42%
39 cases (New York State).....	19,507,200	1,749,000	8.93%



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